



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAY 10 2018

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Elizabeth Warren
United States Senate
Washington, D.C. 20510

Dear Senator Booker:

Thank you for your letter of September 19, 2017, regarding EPA's Superfund Program. I appreciate your interest in facilitating timely cleanup of sites nationwide.

Protecting human health and the environment is EPA's core mission. Over the past year, the agency has taken several significant actions to ensure that the Superfund program operates to meet this mission. Following Administrator Pruitt's establishment of the Superfund Task Force in May 2017, the agency issued and implemented recommendations for improving and expediting site cleanups as well as to promote redevelopment. EPA recently issued the second quarterly report of the Superfund Task Force which provides a comprehensive list of accomplishments from each fiscal year quarter starting from October 2017. The quarterly reports can be found on EPA's website at: <https://www.epa.gov/superfund/superfund-task-force>.

Other accomplishments include:

- Development of an emphasis list of sites targeted for immediate, intense action that can benefit from the Administrator's direct engagement. These are sites requiring timely resolution of specific issues to expedite cleanup and redevelopment efforts;
- Preparation of a redevelopment focus list of 31 sites found to have the most significant and immediate redevelopment potential. A fact sheet for each of these sites informs interested parties about their reuse potential;
- 1,342 Superfund sites listed as final on the National Priorities List as of the end of FY 2017 and 394 sites deleted. In FY 2018, EPA expects to exceed the number of deletions completed in the prior year.

By retention of the sole authority to approve remedies of \$50 million or more, the Administrator has signed two remedy decision documents to date in FY 2018, and expects to sign at least five

more documents in FY 2018. Numerous sites, stalled far too long, are moving again and more sites will follow.

Great progress has been made in advancing the Administrator's goal of reinvigorating the Superfund program through the Superfund Task Force's efforts in accelerating cleanup progress at sites across the country identified on the Administrator's emphasis list. In order to continue these successes and implementation of the Task Force recommendations, Mr. Steven Cook, Deputy Assistant Administrator for EPA's Office of Land and Emergency Management, will now take the lead as Chair of the Superfund Task Force.

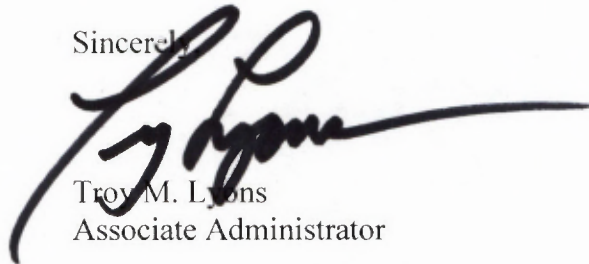
Mr. Kelly's involvement with the Superfund Task Force was focused on facilitating activities that mainly pertained to the policy of cleanup of Superfund sites. Regarding Mr. Kelly's resignation, Administrator Pruitt issued the following statement regarding Mr. Kelly: "Kell Kelly's service at EPA will be sorely missed. In just over a year he has made a tremendous impact on EPA's Superfund program, serving as chair of the Superfund Task Force and presiding over the development of the steps necessary to implement the recommendations in the report. Kell has made a point to visit dozens of Superfund sites across the country and has met directly with impacted citizens, community groups and responsible parties. Kell served in a way that puts the needs of the American people and communities first, while respecting the work committed to by responsible parties. He helped EPA professionals find solutions to moving languished sites down the path to clean up including San Jacinto in Texas, Portland Harbor in Oregon and West Lake in St. Louis. Additionally, Kell was instrumental in organizing EPA's effort to eradicate lead poisoning across the country within the decade. While Kell's departure is one that will be felt across the Agency, a strong staff of dedicated professionals will continue this valuable work. His role will be greatly augmented by Peter Wright, who is the nominee for the Assistant Administrator position in the Office of Land and Emergency Management."

EPA agrees that to meet its mission of protecting human health and the environment, Superfund cleanup remedies must be designed to account for the impacts of extreme weather events. The agency's existing processes for site cleanup planning and implementation provide a robust structure that allows consideration of these impacts. EPA integrates extreme weather vulnerability analyses and adaptation planning throughout the Superfund process, including when conducting feasibility studies, remedial designs and remedy performance reviews. Due to wide variation in the location and geophysical characteristics of contaminated sites, the nature of remedial actions at those sites, and local or regional climate and weather regimes, a place-based strategy is the most effective method to achieve this.

In 2012, the agency conducted a Superfund program assessment to: (1) identify extreme weather impacts most likely to affect remedies that are commonly used for contaminated groundwater, soil, or sediment; (2) evaluate associated vulnerabilities of the remedies; and (3) establish adaptation strategies for new and existing remediation systems. Since that time, EPA has worked to raise awareness among stakeholders, including Superfund site remedial project managers, about the importance of evaluating and addressing extreme weather vulnerabilities to ensure the continued protectiveness of remedies. The agency also continues to develop technical guidance, informational tools and training to assist site managers in integrating extreme weather vulnerability analyses and adaptation planning throughout the Superfund process.

Again, thank you for your letter. We appreciate your continued interest in EPA's Superfund Program. If you have further questions, you may contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations at levine.carolyn@epa.gov or (202) 564-1859.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Lyons", with a long horizontal flourish extending to the right.

Troy M. Lyons
Associate Administrator

[Handwritten signature]



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAY 10 2018

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Cory Booker
United States Senate
Washington, D.C. 20510

Dear Senator Booker:

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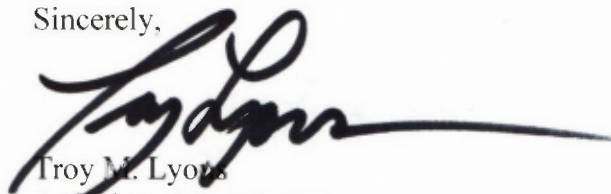
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Sincerely,

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Troy M. Lyons
Associate Administrator

John

United States Senate

WASHINGTON, DC 20510

January 30, 2018

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, D.C. 20460

Dear Administrator Pruitt:

We write today for information related to the request sent to Albert Kelly on January 18, 2018, regarding his chairmanship position on the Environmental Protection Agency's ("EPA") Superfund Task Group and his role as your Senior Advisor. We anticipate that Mr. Kelly will respond prior to the February 1 deadline in the letter, but you will be testifying before the Environment and Public Works Committee tomorrow. We are therefore writing to you in order to better understand why Mr. Kelly was appointed and how the Superfund program is currently being administrated. We ask that you come to tomorrow's hearing prepared to address these matters.

Today, there are more than 1,300 sites listed on the National Priorities List, with approximately 53 million people - nearly one sixth of the country's population - living within three miles of these Superfund sites.¹ Massachusetts currently has 32 active Superfund sites.² New Jersey, with 114 active Superfund sites, has more contaminated sites than any other state.³ Due to the health and safety risks to citizens throughout the country and in our home states of Massachusetts and New Jersey, it is critical that the EPA efficiently and effectively facilitate the cleanup and revitalization of Superfund sites.

As you know, proper financial management of the Superfund program is critical to its success. Since 1999, federal funding for the Superfund program has declined from about \$2 billion to about \$1.1 billion annually,⁴ and the rate of contamination threat reduction at Superfund sites has declined.⁵ The Trump Administration's FY 2018 budget proposal seeks to further delay the cleanup of contaminated sites by proposing to decrease the program's funding by 25 percent.

¹ Environment Protection Agency, "National Priorities List and Superfund Alternative Agreement Sites" (online at: <https://www.epa.gov/superfund/search-superfund-sites-where-you-live#npl>); Mathy Stanislaus, "Superfund Investigates Land Pollution from the Past...and Present," *EPA Blog* (September 9, 2016) (online at <https://blog.epa.gov/blog/2016/09/superfund-investigates-land-pollution-from-the-pastandpresent/>).

² Environment Protection Agency, "List of Superfund sites in Massachusetts" (online at: <https://www.epa.gov/ma/list-superfund-sites-massachusetts>)

³ S.P. Sullivan, "The most toxic sites in each New Jersey county," *New Jersey Real-Time News* (August 6, 2017) (online at http://www.nj.com/news/index.ssf/2017/04/the_most_toxic_sites_in_each_new_jersey_county.html)

⁴ Government Accountability Office, "Trends in Federal Funding and Cleanup of EPA's Nonfederal National Priorities List Sites" (September 2015) (online at <https://www.gao.gov/assets/680/672734.pdf>).

⁵ Government Accountability Office, "Trends in Federal Funding and Cleanup of EPA's Nonfederal National Priorities List Sites" (September 2015) (on line at <https://www.gao.gov/assets/680/672734.pdf>).

Recently, the EPA has conceded that dangerous toxic and carcinogenic substances at dozens of Superfund sites are not adequately under control.⁶ The EPA has also acknowledged that recent hurricanes have washed unknown amounts of chemicals from multiple Superfund sites into waterways.⁷ A total of 327 Superfund sites across the country are susceptible to similar consequences due to the increased threat of flooding and sea-level rise.⁸ In response to these findings, the Government Accountability Office (GAO) has agreed to investigate the risks to human health and the environment posed by natural disasters' impacts on Superfund sites.⁹ However, despite these clear risks, there was not a single mention of climate change in the Superfund Task Force's report or acknowledgment of its impacts on the designation of certain sites on the program's priority list.¹⁰

Given the urgent threat to public health and wellbeing posed by Superfund sites, we are very troubled by your decision to nominate an inexperienced, disqualified former banker, rather than an experienced scientist and government official to lead the implementation of improvements to the Superfund program. On May 22, 2017, you commissioned the Superfund Task Force, nominating Albert Kelly, who previously was CEO and President of Oklahoma-based SpiritBank.¹¹ Under Mr. Kelly's leadership, SpiritBank approved several mortgage loans for you and your wife in 2004, and a loan to buy a share of a minor league baseball team, the Oklahoma City Red Hawks, in 2003.¹²

Mr. Kelly's career at SpiritBank was marked by mismanagement and fraud. Just thirteen days prior to his appointment, he was ordered by the Federal Deposit Insurance Corporation ("FDIC") to pay a civil penalty of \$125,000 after he "enter[ed] into an agreement pertaining to a loan ... without FDIC approval."¹³ Two months later, the FDIC issued a lifetime ban prohibiting Mr. Kelly from managing financial institutions after determining that his violations "demonstrated ...

⁶ Environmental Protection Agency, "Human Exposure in Superfund, Explained" (online at <https://19january2017.snapshot.epa.gov/superfund/human-exposure-superfund-explained.html>).

⁷ Environmental Protection Agency, "EPA Statement- San Jacinto River Waste Pits Superfund Site Data," (September 28, 2017) (online at <https://www.epa.gov/newsreleases/epa-statement-san-jacinto-river-waste-pitssuperfund-site-data>); Vann Newkirk II, "The Looming Superfund Nightmare" *The Atlantic* (September 12, 2017) (online at <https://www.theatlantic.com/health/archive/2017/09/the-looming-superfund-nightmare/539316/>).

⁸ Jason Dearan, Michael Biesecker, and Angeliki Kastanis, "AP finds climate change risk for 327 toxic Superfund sites" *Associated Press* (December 22, 2017) (online at <https://apnews.com/31765cc6d10244588805ee738edcb36b/AP-finds-climate-change-risk-for-327-toxicSuperfund-sites>).

⁹ Government Accountability Office, "GAO Superfund Report Acceptance" (online at <https://www.documentcloud.org/documents/4344039-GAO-Superfund-Report-Acceptance-1.html>).

¹⁰ Environmental Protection Agency, "Superfund Task Force Recommendations" (May 22, 2017) (online at https://www.epa.gov/sites/production/files/2017-07/documents/superfund_task_force_report.pdf).

¹¹ Environmental Protection Agency, "EPA Announces Superfund Task Force" (online at <https://www.epa.gov/newsreleases/epa-announces-superfund-task-force>).

¹² Sharon Lerner, "Banned from the Banking Industry for Life, A Scott Pruitt Friend Finds a New Home at the EPA," *The Intercept* (December 28, 2017) (online at <https://theintercept.com/2017/12/28/scott-pruitt-failed-banker-running-epa-superfund-program/>).

¹³ Federal Deposit Insurance Corporation "Stipulation and Consent to the Issuance of an Order to Pay" (online at <https://assets.documentcloud.org/documents/4336500/2017-11-17-08-59-12.pdf>).

unfitness to serve as a director, officer, [and] person participating in the conduct of the affairs or as an institution affiliated party of the bank, [or] any other insured depository institution."¹⁴

Given Mr. Kelly's troubled financial history, his recent permanent ban from banking activities by FDIC, and his lack of experience in environmental policy and regulation, we are concerned by the work he continues to do as Chairman of the Superfund Task Force and Senior Advisor at the EPA. Our concerns are only further amplified by reports that, nearly six months after the release of the Task Force's report, there is no record of any meeting agendas, minutes, or reference materials about the work conducted and sources used to compile the findings and recommendations of the report.¹⁵

To address our questions and concerns, we respectfully request that you be prepared to respond to these questions during your appearance at the Senate Committee on Environment and Public Works oversight hearing on January 30, 2018:

1. Mr. Kelly had no previous experience in environmental policy or management when you named him to Chair the Superfund Task Force. What experience did he have that you believe qualified him to serve as Chair? What experience did he have that you believe qualified him to serve as your senior advisor?
2. When did you become aware of the FDIC's investigations and sanctioning of Mr. Kelly in his position as CEO and President of SpiritBank? Were you aware of these investigations and impending sanctions when you named him as Chair of the Superfund Task Force? Were you aware of these investigations and impending sanctions when you named him as Senior Adviser at EPA?
3. Was Mr. Kelly, to your knowledge, directly involved in the decision making or processing of any of the mortgage loans you or your wife received from SpiritBank? Was he involved in the decision making or processing of your loan to purchase a minor league baseball team? If so, please describe his involvement.
4. What responsibilities was Albert Kelly given as Chairman of the EPA Superfund Task Force during the production of the Superfund Task Force Recommendations? What is his role now that the Task Force has released its recommendations?
5. What responsibilities was Albert Kelly given as Senior Advisor at the EPA? What specific policy areas and programs will he be responsible for in this role?
6. The FDIC has banned Albert Kelly from banking for life because he "demonstrated ... unfitness to serve as a ... person participating in the conduct of the affairs ... [of] any ... insured depository institution." Will he be managing or providing advice on Superfund


¹⁴ Federal Deposit Insurance Corporation "Order of Prohibition From Further Participation" (online at https://www.fdic.gov/news/2017/08/28/document_gw_10.pdf)

¹⁵ Michael Biesecker, "EPA says Superfund Task Force created by Pruitt kept no records of meetings," (December 20, 2017) (online at <http://www.chicagotribune.com/news/nationworld/politics/ct-epa-pruitt-superfund-task-forcerecords-20171220-story.html>)


program funding or any other program funding in his role as Senior Advisor? If so, what is the nature of these responsibilities? Will you ask him to recuse himself from any specific agency activities or issue areas as a result of the banking ban?

7. Did the EPA comply with the Federal Advisory Committee Act when picking the committee members of the Superfund Task Force? Please provide a complete list of the members chosen for the EPA Superfund Task Force.
8. Did Mr. Kelly consult, or direct the Task Force to consult, with any outside organizations or individuals in drafting the Superfund Task Force report? If so, please list those individuals and organizations.
9. The EPA has stated that the Superfund Task Force kept no records of the analysis used to form recommendations for the Superfund program. Please provide justification or reasoning for the lack of record keeping when compiling a report that would shape the management of the Superfund program.
10. In response to the Superfund Task Force recommendations issued on July 25, 2017, you developed multiple priority lists of Superfund sites, including a list for sites that required "immediate, targeted action" and the "Redevelopment Focus" list that highlights sites that can create potential commercial and development opportunities. How did you pick the sites to include on these lists? What process do you intend to use in removing and adding sites to these lists? How does the prioritization of these sites affect cleanup, construction, and revitalization efforts on the ground? Do you plan to release a report or follow up on the progress made at the sites on these lists?
11. Have you accounted for the impacts of human induced climate change and sea level rise in the administration of the Superfund program's activities? Did the Task Force address these matters? If so, what was the nature of the discussion, and what recommendations did the Task Force provide relating to these matters?

Sincerely,



Elizabeth Warren
United States Senator



Cory A. Booker
United States Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 9, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Charles E. Grassley
United States Senate
Washington, D.C. 20510

Dear Senator Grassley:

Thank you for your letter of January 11, 2018, to U.S. Environmental Protection Agency Administrator Scott Pruitt, in which you ask a series of questions related to the Renewable Fuel Standard (RFS) and the impact of RIN (renewable identification numbers) prices on various parties. The Administrator asked that I respond on his behalf.

Several of your questions pertain to RIN pass-through, or more specifically, the extent to which the value of a RIN is “passed through” and reflected in the price at which refiners sell their blendstock product. EPA recently completed an assessment of a number of the questions raised in your letter, including those related to RIN price pass-through. The agency’s conclusions, based on the information available to EPA at the time of our assessment, are available in our *Denial of Petitions for Rulemaking to Change the RFS Point of Obligation*.¹ Of particular relevance to your questions related to RIN value pass-through was our finding that “All obligated parties, including merchant refiners, are generally able to recover the cost of the RINs they need for compliance with the RFS obligations through the cost of the gasoline and diesel fuel they produce.”² The agency also reiterated that it was not persuaded by arguments that merchant refiners are put at a distinct disadvantage when compared to integrated refiners:

The EPA is also not persuaded, based on the record before us, by arguments that, under the current regulatory structure, merchant refiners are disadvantaged compared to integrated refiners in terms of their costs of compliance, nor that other stakeholders are receiving windfall profits. The costs of the RFS program are apportioned to all refiners and importers as a function of their production volume and generally are passed on to consumers.³

With regard to your infrastructure build-out questions, the agency has stated that the primary barriers limiting the production and use of renewable fuels are the status of the production technologies to economically produce cellulosic fuels and to a lesser degree vehicle

¹ Available on EPA’s website at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100TBGV.pdf>

² US EPA, *Denial of Petitions for Rulemaking to Change the RFS Point of Obligation* (November 2017), *see* p. 23.

³ *Id.* at p. 9.

and retail infrastructure compatibility with higher level ethanol blends. In light of this situation, the agency continues to review and administer decisions associated with expanding the recognition of cellulosic fuels through pending pathways applications. More broadly, the agency believes there is sufficient blending infrastructure available to date, as demonstrated in part by the ability of the current regulatory program to incentivize its installation.

Some of your questions pertain to compliance options available to obligated parties. The agency would simply note that there are several different options obligated parties have to fulfill their volume obligations including blending renewable fuel, purchasing RINS or acquiring downstream infrastructure.

Some of the questions in your letter pertain to issues outside EPA's purview. Your questions associated with information about investments in renewable fuel blending infrastructure by refineries, the relationship between RIN prices and quarterly refining operating income, and how market factors such as refinery location impact the financial performance of all refiners are topics for which EPA does not have the information available to fully assess. The agency would note that industry choices regarding which market segments to participate in, and to what degree, continually evolve over time, as profits among the various market segments likewise vary considerably over time. Other parties, such as the Department of Energy or individual refiners, may be better able to address these specific questions.

Finally, your questions regarding capping RIN prices have been the subject of an ongoing dialogue between the White House, Congress and numerous federal agencies, including EPA and the U.S. Department of Agriculture. As these discussions and the associated analyses by all involved entities are ongoing, any conclusory statement at this point would be premature.

EPA appreciates the importance of the RFS program to stakeholders across the country, especially America's hard-working farmers. As such, the Administration is interested in ensuring the program is implemented in a manner consistent with the statute. EPA also appreciates the important role Congress has and will continue to play in the success of the program. As such, I look forward to working with you and your colleagues as we continually look for opportunities to improve the operation of the program.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Troy Lyons in the EPA's Office of Congressional and Intergovernmental Relations at lyons.troy@epa.gov or 202-564-1142.

Sincerely,



William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 9, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of January 11, 2018, to U.S. Environmental Protection Agency Administrator Scott Pruitt, in which you ask a series of questions related to the Renewable Fuel Standard (RFS) and the impact of RIN (renewable identification numbers) prices on various parties. The Administrator asked that I respond on his behalf.

Several of your questions pertain to RIN pass-through, or more specifically, the extent to which the value of a RIN is "passed through" and reflected in the price at which refiners sell their blendstock product. EPA recently completed an assessment of a number of the questions raised in your letter, including those related to RIN price pass-through. The agency's conclusions, based on the information available to EPA at the time of our assessment, are available in our *Denial of Petitions for Rulemaking to Change the RFS Point of Obligation*.⁷ Of particular relevance to your questions related to RIN value pass-through was our finding that "All obligated parties, including merchant refiners, are generally able to recover the cost of the RINs they need for compliance with the RFS obligations through the cost of the gasoline and diesel fuel they produce."⁸ The agency also reiterated that it was not persuaded by arguments that merchant refiners are put at a distinct disadvantage when compared to integrated refiners:

The EPA is also not persuaded, based on the record before us, by arguments that, under the current regulatory structure, merchant refiners are disadvantaged compared to integrated refiners in terms of their costs of compliance, nor that other stakeholders are receiving windfall profits. The costs of the RFS program are apportioned to all refiners and importers as a function of their production volume and generally are passed on to consumers.⁹

With regard to your infrastructure build-out questions, the agency has stated that the primary barriers limiting the production and use of renewable fuels are the status of the production technologies to economically produce cellulosic fuels and to a lesser degree vehicle

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Finally, your questions regarding capping RIN prices have been the subject of an ongoing dialogue between the White House, Congress and numerous federal agencies, including EPA and the U.S. Department of Agriculture. As these discussions and the associated analyses by all involved entities are ongoing, any conclusory statement at this point would be premature.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Troy Lyons in the EPA's Office of Congressional and Intergovernmental Relations at lyons.troy@epa.gov or 202-564-1142.

Sincerely,

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 9, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Deb Fischer
United States Senate
Washington, D.C. 20510

Dear Senator Fischer:

Thank you for your letter of January 11, 2018, to U.S. Environmental Protection Agency Administrator Scott Pruitt, in which you ask a series of questions related to the Renewable Fuel Standard (RFS) and the impact of RIN (renewable identification numbers) prices on various parties. The Administrator asked that I respond on his behalf.

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The EPA is also not persuaded, based on the record before us, by arguments that, under the current regulatory structure, merchant refiners are disadvantaged compared to integrated refiners in terms of their costs of compliance, nor that other stakeholders are receiving windfall profits. The costs of the RFS program are apportioned to all refiners and importers as a function of their production volume and generally are passed on to consumers.¹²

With regard to your infrastructure build-out questions, the agency has stated that the primary barriers limiting the production and use of renewable fuels are the status of the production technologies to economically produce cellulosic fuels and to a lesser degree vehicle

¹⁰ Available on EPA's website at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockkey=P100TBGV.pdf>

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¹² *Id.* at p. 9.

and retail infrastructure compatibility with higher level ethanol blends. In light of this situation, the agency continues to review and administer decisions associated with expanding the recognition of cellulosic fuels through pending pathways applications. More broadly, the agency believes there is sufficient blending infrastructure available to date, as demonstrated in part by the ability of the current regulatory program to incentivize its installation.

Some of your questions pertain to compliance options available to obligated parties. The agency would simply note that there are several different options obligated parties have to fulfill their volume obligations including blending renewable fuel, purchasing RINS or acquiring downstream infrastructure.

Some of the questions in your letter pertain to issues outside EPA's purview. Your questions associated with information about investments in renewable fuel blending infrastructure by refineries, the relationship between RIN prices and quarterly refining operating income, and how market factors such as refinery location impact the financial performance of all refiners are topics for which EPA does not have the information available to fully assess. The agency would note that industry choices regarding which market segments to participate in, and to what degree, continually evolve over time, as profits among the various market segments likewise vary considerably over time. Other parties, such as the Department of Energy or individual refiners, may be better able to address these specific questions.

Finally, your questions regarding capping RIN prices have been the subject of an ongoing dialogue between the White House, Congress and numerous federal agencies, including EPA and the U.S. Department of Agriculture. As these discussions and the associated analyses by all involved entities are ongoing, any conclusory statement at this point would be premature.

EPA appreciates the importance of the RFS program to stakeholders across the country, especially America's hard-working farmers. As such, the Administration is interested in ensuring the program is implemented in a manner consistent with the statute. EPA also appreciates the important role Congress has and will continue to play in the success of the program. As such, I look forward to working with you and your colleagues as we continually look for opportunities to improve the operation of the program.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Troy Lyons in the EPA's Office of Congressional and Intergovernmental Relations at lyons.troy@epa.gov or 202-564-1142.

Sincerely,

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 9, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Joni K. Ernst
United States Senate
Washington, D.C. 20510

Dear Senator Ernst:

Thank you for your letter of January 11, 2018, to U.S. Environmental Protection Agency Administrator Scott Pruitt, in which you ask a series of questions related to the Renewable Fuel Standard (RFS) and the impact of RIN (renewable identification numbers) prices on various parties. The Administrator asked that I respond on his behalf.

Several of your questions pertain to RIN pass-through, or more specifically, the extent to which the value of a RIN is "passed through" and reflected in the price at which refiners sell their blendstock product. EPA recently completed an assessment of a number of the questions raised in your letter, including those related to RIN price pass-through. The agency's conclusions, based on the information available to EPA at the time of our assessment, are available in our *Denial of Petitions for Rulemaking to Change the RFS Point of Obligation*.¹³ Of particular relevance to your questions related to RIN value pass-through was our finding that "All obligated parties, including merchant refiners, are generally able to recover the cost of the RINs they need for compliance with the RFS obligations through the cost of the gasoline and diesel fuel they produce."¹⁴ The agency also reiterated that it was not persuaded by arguments that merchant refiners are put at a distinct disadvantage when compared to integrated refiners:

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and retail infrastructure compatibility with higher level ethanol blends. In light of this situation, the agency continues to review and administer decisions associated with expanding the recognition of cellulosic fuels through pending pathways applications. More broadly, the agency believes there is sufficient blending infrastructure available to date, as demonstrated in part by the ability of the current regulatory program to incentivize its installation.

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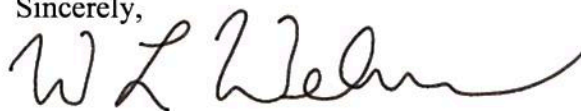
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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 9, 2018

OFFICE OF
AIR AND RADIATION

The Honorable John Thune
United States Senate
Washington, D.C. 20510

Dear Senator Thune:

Thank you for your letter of January 11, 2018, to U.S. Environmental Protection Agency Administrator Scott Pruitt, in which you ask a series of questions related to the Renewable Fuel Standard (RFS) and the impact of RIN (renewable identification numbers) prices on various parties. The Administrator asked that I respond on his behalf.

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and retail infrastructure compatibility with higher level ethanol blends. In light of this situation, the agency continues to review and administer decisions associated with expanding the recognition of cellulosic fuels through pending pathways applications. More broadly, the agency believes there is sufficient blending infrastructure available to date, as demonstrated in part by the ability of the current regulatory program to incentivize its installation.

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Sincerely,

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William L. Wehrum
Assistant Administrator

United States Senate

WASHINGTON, DC 20510

January 11, 2018

The Honorable E. Scott Pruitt, Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460

Dear Administrator Pruitt,

As you are aware, we have been asked to participate in discussions with our Senate colleagues regarding the Renewable Fuel Standard. Specifically, our colleagues are working to construct policy options that would lower RIN prices for certain fuel refiners. In an effort to fully understand the perceived problem that we are being asked to address, it would be useful to have clarification from the Environmental Protection Agency on a number of topics to better understand the issues being discussed. We would respectfully request your help in addressing the following questions.

- 1) In November, EPA wrote "After reviewing the available data, EPA has concluded that refiners are generally able to recover the cost of RINs in the prices they receive for their refined products, and therefore high RIN prices do not cause significant harm to refiners."¹ Has EPA's view on this subject changed?
- 2) EPA has also stated that "Merchant refiners, who largely purchase separated RINs to meet their RFS obligations, should not therefore be disadvantaged by higher RIN prices, as they are recovering these costs in the sale price of their products."² Does EPA still maintain this view on the effect of RINs on merchant refiners? If not, what has changed?
- 3) A November analysis by Wells Fargo concluded that "...bottom line performance appears positive for most of the Independent Refiners across our coverage universe as the vast majority of the cost of RINs is embedded in the crack spread." The report also noted that RINs provide a "financial incentive to 'build out' wholesale infrastructure." Does EPA agree with those conclusions?
- 4) The RFS allows obligated parties to fulfill their volume obligations by either blending renewable fuel or purchasing RINs. Is it accurate that obligated parties have an alternative other than purchasing RIN credits? Could merchant refiners increase their ability to blend renewable fuels to comply with the RFS? Is EPA aware of any obstacles preventing any of the merchant refiners from blending physical gallons of biofuels to meet their obligation?

¹ U.S. Environmental Protection Agency, *Response to Comments: Renewable Fuel Standard Program: Standards for 2018 and Biomass-Based Diesel Volume for 2019, Proposed Rule*, Nov. 30, 2017.

² U.S. Environmental Protection Agency, *A Preliminary Assessment of RIN Market Dynamics, RIN Prices, and Their Effects*, May 14, 2015.

- 5) Many obligated parties have made substantial, long-term investments in renewable fuel blending facilities to meet RFS obligations. Have the refiners who claim to be severely negatively impacted by RIN prices chosen to make similar investments? If so, in what way? If not, why not?
- 6) Does EPA have any data that would demonstrate a relationship between RIN prices and quarterly operating income for these certain refiners?
- 7) EPA determined that the RFS and RINs are not causing significant harm to refiners.³ What are the market factors that primarily affect the financial performance of oil refiners?
- 8) How do refining margins and financial performance differ geographically? What unique factors contribute to regional variations in refining margins in the Northeast, Gulf Coast, Midwest, Rocky Mountain region, and West Coast?
- 9) EPA analysis revealed that "the discounting of renewable fuels enabled by the sale of the RINs, and the higher petroleum prices that result from the cost of purchasing RINs, are expected to offset each other, resulting in the RIN price having no net impact across the entire fuel pool."⁴ In other words, RINs have no impact on retail prices for standard E10 gasoline. Economists from Harvard University, MIT, Iowa State University, and other institutions have come to similar conclusions. Does EPA still maintain the view that RINs have no net impact on E10 gasoline retail prices? If not, what has changed?
- 10) EPA analysis shows that "[h]igh RIN prices are expected to reduce the price of fuel blends that contain a higher percentage of renewable fuels, such as E85..." In turn, EPA found that consumption of E85 increases as RIN prices increase and E85 prices decrease relative to gasoline.⁵ Would a price cap on RINs discourage increased renewable fuel consumption?
- 11) Does EPA believe capping RIN prices would reduce or eliminate the economic incentive to expand consumption of fuel blends with higher renewable content, like E15, E85, and B20? Would a price cap on RINs make it more difficult for the marketplace to achieve the statutory renewable blending volumes?

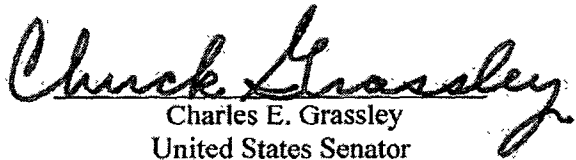
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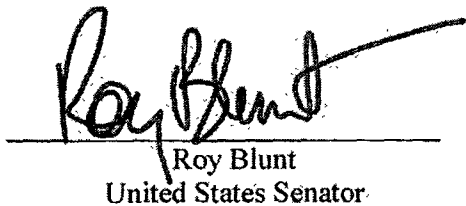
⁵ U.S. Environmental Protection Agency, *A Preliminary Assessment of RIN Market Dynamics, RIN Prices, and Their Effects*, May 14, 2015.

Thank you for your assistance in clarifying these matters.

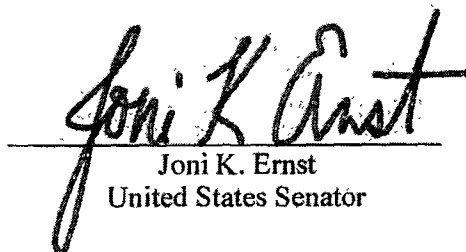
Sincerely,


Charles E. Grassley
United States Senator


John Thune
United States Senator


Roy Blunt
United States Senator


Deb Fischer
United States Senator


Joni K. Ernst
United States Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

February 16, 2018

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable John Shimkus
Chairman
Subcommittee on Environment
Committee on Energy and Commerce
House of Representatives
Washington, D.C. 20515

Dear Chairman Shimkus:

Enclosed please find the U.S. Environmental Protection Agency's responses to the Subcommittee's Questions for the Record following the Subcommittee's December 7, 2017, hearing entitled "The Mission of the Environmental Protection Agency."

If you have further questions, please contact me, or your staff may contact Christian Rodrick in the EPA's Office of Congressional and Intergovernmental Relations at rodrick.christian@epa.gov or (202) 564-4828.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Ringel", is positioned above the printed name and title of the signatory.

Aaron Ringel
Deputy Associate Administrator

cc: The Honorable Paul Tonko
Ranking Member

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

February 16, 2018

OFFICE OF CONGRESSIONAL
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The Honorable Paul Tonko
Ranking Member
Subcommittee on Environment
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House of Representatives
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Aaron Ringel
Deputy Associate Administrator

cc: The Honorable John Shimkus
Chairman

Enclosure

Attachment—Additional Questions for the Record

The Honorable John Shimkus

1. This committee was instrumental in developing the Electronic Hazardous Waste Manifest Act of 2012, which requires EPA to replace the outdated paper documents with a new electronic system for tracking all hazardous waste shipments.
 - a. What are some of the other ways the hazardous waste program could be improved, particularly in terms of the elimination of duplicative and unnecessary regulations?
 - b. Is EPA pursuing any of these efforts?

Response: EPA continually looks for ways that the hazardous waste program could be improved. For example, we recently completed a review and revision of the hazardous waste generator regulations which included over 60 regulatory changes that increased the flexibility for the regulated community to better fit today's business operations, clarified requirements, and improved environmental protection. The revisions also reorganized the regulations to make them easier to follow. These changes were directly responsive to feedback from our regulated community, states, communities, and other stakeholders. We have also updated our hazardous waste import/export regulations and have moved from paper to electronic submission of most of the required documents. Our goal is to make all of the required submittals electronic.

The agency currently has a number of rulemakings underway as well. For example, we proposed a new regulatory structure for addressing hazardous waste pharmaceuticals, and are working to finalize that rule in 2018. The agency also intends to propose adding aerosol cans to the federal universal waste regulations in 2018. Both of these efforts streamline regulatory requirements and are directly responsive to issues raised by stakeholders. Finally, we are reviewing comments submitted to EPA as part of the overall regulatory reform efforts, and the agency has met and continues to meet with representatives from the regulated community, states, and other stakeholders to discuss their major concerns and determine whether regulatory changes would be appropriate.

2. The previous Administration attempted to regulate farms and agricultural processors by saying that its 2009 Endangerment Finding regulated "biogenic" CO₂ from agricultural crops. I understand The Endangerment Finding, however, never mentions the word "biogenic."
 - a. Do you intend to look at this interpretation of the Endangerment Finding?
 - b. If so, would you view it in terms of whether EPA overreached to regulate natural CO₂ from U.S. farms?

Response: The 2009 Endangerment Finding does not directly address this issue. The Finding is a scientific determination and does not itself regulate any particular entity. The agency is aware of this interpretive issue. The Finding recognizes the potential for positive or negative contribution to net emissions of land use, land-use change, and forestry. The EPA has never regulated CO₂ from farms.

3. On October 17, 2017, EPA's Air Enforcement Division sent a letter to the Ozone Transport Commission stating that the agency "agrees that the 1986 policy on aftermarket catalytic converter emissions is outdated."

- a. What steps are being taken to update this policy?

- b. Does the Agency have a timeline for this process?

Response: EPA is conducting a policy and legal review of the 1986 policy. Given the complexity of the issues, it is not possible to project the timing for an action in this regard.

4. There has been concern that EPA's regional offices enforce their authority differently from each other and Headquarters guidance. Do you intend to bring alignment among EPA Headquarters and the Regions?

Response: Yes, it is of the utmost importance for regulatory certainty that EPA speaks with one voice.

5. The Administration's budget request zeroed out the funding to the Department of Justice for superfund-related enforcement activities and for cost recovery efforts for the superfund program. If the goal is to get more sites cleaned up and to speed up cleanups, that seems like an odd budget request since DOJ brings money back into the federal coffers from superfund polluters – can you explain to us why the president's budget request would zero out those funds?

Response: Cleaning up the nation's Superfund sites and returning them to communities for beneficial use is one of EPA's top priorities. Under the President's Budget, DOJ support for Superfund Enforcement would come from DOJ's base resources and EPA would work with DOJ to focus on the highest priority sites, particularly those that may present an immediate risk to human health and the environment.

6. On December 1, 2017 EPA issued a decision not to do a final rule regarding financial assurance requirements for the hard rock mining sector. Can you tell us what the status is of the 108(b) rule making for the other industry sectors that are next in line [chemical manufacturing, petroleum and coal products manufacturing, and the electric power generation, transmission, and distribution]?

Response: EPA intends to proceed with the regulatory process for possible development of CERCLA Section 108(b) financial responsibility requirements for the chemical manufacturing; petroleum and coal products manufacturing; and electric power generation, transmission, and distribution industries, as required by the January 29, 2016, Order of the U.S. Court of Appeal for the District of Columbia.

The next milestone in the Order's schedule requires the agency to sign for publication in the Federal Register a notice of proposed rulemaking for one of those three industries by July 2, 2019. At that time, EPA will decide whether proposal of requirements for classes of facilities within that industry sector is necessary and, if so, will propose appropriate requirements. Similar decisions about the remaining two industries will be made in subsequent rulemakings.

7. EPA announced that it could be a year before it can start cleanup of the San Jacinto River Waste Pits, which sprung a leak during Hurricane Harvey flooding. Is that because EPA officials are in the process of negotiating with responsible parties to pay for the \$115 million project?

- a. Does EPA have a plan to address the leaking cap in the meantime?

Response: The area of the waste pits with elevated levels of dioxin was repaired to pre-storm standards in September 2017 following Hurricane Harvey. Damaged areas were fully covered with rock. The EPA dive team completed an under-water reconnaissance to define the full extent of the damaged area, collected samples to characterize the exposed materials, and conducted the oversight of the repairs. This work addresses the damage from the storm.

- b. It was also announced that once the cleanup process starts, it is expected to take about 27 months. What safeguards will EPA put in place to ensure that more damage to the cap does not occur before the removal can be completed?

Response: The temporary armored cover system requires routine and episodic maintenance to maintain its protectiveness until the final remedy can be implemented. EPA has instructed the responsible parties to implement an inspection and repair program to inspect and repair the armored cover periodically and after each significant storm event. In addition, the remedy selected includes provisions for dry excavation behind water tight barriers.

8. Administrator Pruitt, in October you announced a new policy of the Agency regarding the use of settlements to circumvent the regulatory process and indicated that EPA “will no longer go behind closed doors and use consent decrees and settlement agreements to resolve lawsuits filed against the Agency.” The issue of “sue and settle” and the ability of special interest groups to use deadline lawsuits to force EPA to issue regulations that advance their priorities on a specified timeframe has long been a concern of this Subcommittee.

- a. As you noted in your statement about the new policy, “‘sue and settle’ cases establish Agency obligations without participation by states and/or the regulated community; foreclose meaningful public participation in rulemaking; effectively force the Agency to reach certain regulatory outcomes; and, cost the American taxpayer millions of dollars.” Has the Agency started implementing the changes?

Response: Yes. EPA continues to post, as it has since 2013, Notices of Intent to Sue (NOI) that are filed with the agency, and any associated complaints that are filed with courts related to those NOIs. These NOIs and complaints are available at <http://www.epa.gov/noi>. In addition, EPA is also now posting online all environmental complaints and petitions for review, regardless of whether an NOI was filed. These complaints and petitions for review are available at <http://www.epa.gov/programs-and-projects-office-general-counsel-ogc/complaints-and-petitions-review>. Consistent with the Directive, EPA’s Office of General Counsel has also sent notices of lawsuits filed against EPA to affected states and regulated entities. Additionally, for the first time, EPA has posted a table that contains all consent decrees and settlement agreements that continue to bind future agency action.

That table is available at <https://www.epa.gov/programs-and-projects-office-general-counsel-ogc/consent-decrees-and-settlement-agreements>.

- b. There has been some pushback on your sue and settle proposal. How do you respond to the people, many of whom are former EPA attorneys, who say that the policy "discourages settlements when they would have been appropriate and increases agency costs?"

Response: The directive provides the process by which the Agency may settle litigation. Nothing in the directive prevents EPA from settling cases.

- c. How do you differentiate between the negative aspects of sue and settle [lack of transparency etc...] and the positive? For example, regulated entities and EPA often reach agreement on a cleanup or enforcement issue, enter a settlement, and then file a lawsuit seeking court approval and enforcement of the settlement. Is your new "sue and settle" policy agency-wide? And is it a mandate to not use sue and settle in ways that shorten the administrative time it takes to get a cleanup or resolution of an enforcement action?

Response: The directive does not apply to enforcement actions.

- 9. When was the last time EPA listed a Federal facility on the National Priorities List (NPL)?

Response: In 2013, EPA placed a Department of Veterans Affairs site on the NPL. The site was listed as the 700 South 1600 East PCE Plume site, located in Salt Lake City, Utah.

- a. If a site scores high enough to rank on the Hazard Ranking System (HRS), will EPA list the Federal facility on the NPL?

Response: EPA does not automatically move to list a site on the NPL if it scores high enough to rank on the HRS. EPA consults with both OMB and the State before proposing a site for listing on the NPL. In cases where a site scores on the HRS but is not listed on the NPL, the State will take the lead on oversight of cleanup by the other federal agency.

- b. How does OMB factor into the decision about whether to list a Federal facility on the NPL?

Response: A review by OMB is not required before a proposed listing rule moves forward. However, several years ago, EPA began to share its proposed NPL listing information with OMB prior to publication of the proposed rules in the Federal Register, in an effort to collaborate more fully with its federal partners. In the case of federal facilities, that dialogue also includes the other federal agency responsible for the site. EPA does not proceed with any listing decision until OMB concurs.

- c. What if a Federal facility ranks on the HRS and the State in which it is located requests that the Federal facility be added to the NPL, will EPA list the Federal facility?

Response: EPA generally consults with the governor of the state before proposing to list a site on the NPL. If a site ranks on the HRS and the state supports listing, EPA will move to list the site on the NPL. If a state does not support listing a site that has scored on the HRS, state laws for non-NPL sites regarding removal and remedial actions, including enforcement, apply under CERCLA Section 120(a)(4). If a state concurs on the listing, EPA will still seek OMB concurrence before listing a site on the NPL.

10. How do you reconcile Executive Order 12580 when it gives the polluter who is also the person paying for the cleanup, the right to make all of the decisions with respect to the remedy with no oversight from EPA?

Response: In 1987, President Reagan signed Executive Order No. 12580 that delegates the President's Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) authority in certain circumstances to Executive Branch agencies. However, for federal facilities on the National Priorities List (NPL), federal agencies are required to enter into an interagency agreement (often referred to as a Federal Facility Agreement (FFA)) with EPA (and states are often parties as well) that provides a framework for carrying out the investigation and cleanup. The FFAs are enforceable agreements to ensure that Federal agency cleanups are timely and protective. Specifically, the FFA includes a stipulated penalties provision for use when federal agencies are not compliant with the FFA, when appropriate. Regarding making decisions, CERCLA mandates that at NPL sites, EPA and the head of the affected Federal agency jointly select remedies. In the event of disagreement, EPA selects the remedy. Finally, under CERCLA Section 120(a)(4), for non-NPL sites, state laws regarding removal and remedial actions, including enforcement, apply.

11. How will EPA build consistency into how the Regions manage CERCLA cleanups?

Response: EPA Headquarters promotes national consistency in the regional management of CERCLA cleanups through a combination of oversight, training, review, and implementation of recommendations on selected remedies to ensure compliance with the National Contingency Plan (NCP) and guidance documents. Regional coordinators at EPA Headquarters provide day-to-day assistance to regional staff and management in reviewing draft documents and strategies, including draft and final decision documents, five-year reviews, and NPL deletion documents. In addition, Headquarters technical and policy staff provide support during required regional consultations, ensure that program polices are given due consideration, and the best science is used to support decisions. Further, a subset of sediment remediation strategies and high cost proposed remedies are reviewed formally by the Contaminated Sediments Technical Advisory Group (CSTAG) and/or the National Remedy Review Board (NRRB). In certain cases, regional managers must brief Headquarters management prior to finalizing key site decisions or response strategies in order to ensure appropriate national consistency from established groups of EPA experts, such as the NRRB and CSTAG.

12. What is the timing for the issuance of the Record of Decision for the Westlake Landfill in Bridgeton, Missouri?

Response: On February 1, 2018, the EPA announced its proposed preferred remedy for Operable Unit 1 of the West Lake Landfill Superfund Site. The proposed preferred remedy – “Excavation Plus” – includes both the removal of the majority of the radiologically impacted material and construction of an engineered cover system, which are designed to protect the community of Bridgeton over the long term. EPA believes its proposed preferred remedy is protective and represents the best balance of the criteria prescribed by the CERCLA and the NCP. The public comment period for this proposal will begin on February 6, 2018 and the proposed plan and administrative record will be available for public comment for a minimum of 45 days. EPA expects to receive requests to extend the comment period. Following the close of the comment period, EPA will review the comments and will make its final remedy decision, which will be documented in an amendment to the agency’s 2008 Record of Decision for the site. As required by CERCLA, EPA will also prepare a Responsiveness Summary for all of the significant comments received during the comment period. We expect this amendment to the Record of Decision to be released in the fall of 2018 at the earliest, but the timing of this will ultimately depend on the length of the public comment period and the volume and complexity of comments received.

13. The Superfund Task Force conducted a 30-day review of the program and released 42 recommendations in July. The Task Force reemphasized long accepted concepts that are necessary to ensure remedies are consistent nationwide, data-driven, and efficient – such as adaptive management, early actions, technical oversight, and strengthening partnerships with stakeholders. You also revised the delegation of authority procedures to require that remedies potentially totaling more than \$50 million must receive approval from the Administrator, which will help promote regional accountability.

- a. How have you been implementing the recommendations of the Task Force at sites with existing Records of Decision and how will you implement the recommendations with new cleanups?

Response: EPA has been working to implement the Task Force recommendations. Each recommendation or in some cases sub-recommendations have work groups that are undertaking steps to implementation. The agency intends to provide a summary of the status of each of these work groups each quarter. These summaries along with other information pertinent to the Task Force will be available on the EPA Superfund Task Force website at <https://www.epa.gov/superfund/superfund-task-force> beginning January 31, 2018.

- b. How will EPA ensure that Regional offices closely follow the principles set forth by the Agency’s 2005 Sediment Guidance and the National Contingency Plan?

Response: EPA’s policy and technical guidance encourages selection and implementation of sound, nationally consistent remedies at contaminated sediment sites. For example, on January 9, 2017, EPA issued “Remediating Contaminated Sediment Sites - Clarification of Several Key Remedial Investigation/Feasibility Study and Risk Management Recommendations, and Updated

Contaminated Sediment Technical Advisory Group Operating Procedures.” This memorandum builds on agency actions over the prior decade and responds, in part, to an October 2016 Government Accountability Office report (GAO-16-777) and updates the agency’s 2005 guidance with additional recommendations, consistent with CERCLA, the NCP, and existing CERCLA guidance, for characterizing sediment sites, evaluating remedial alternatives, and selecting and implementing appropriate response actions.

Sediment site decisions are often complex and multifaceted, underlain by multiple, often controversial determinations that require interpretation (e.g., cleanup level determinations, background levels for contaminants of concern, remedial footprint determination, and technology selection), each with a degree of uncertainty. While all those determinations and site decisions need to reflect site conditions and be consistent with guidance and the NCP, there is no single “correct” remedy. Regions have always received substantial input from Headquarters prior to selecting a remedy. At the largest sites (Tier 2 in the Sediment Guidance), regions consult with the Contaminated Sediments Technical Advisory Group (CSTAG) prior to initiation of the remedial investigation/feasibility study (RI/FS) for the site. Regions coordinate with Headquarters as the RI/FS progresses and come to the Office of Superfund Remediation and Technology Innovation and the Office of General Counsel for statutory, regulatory and guidance clarification. As sites of national interest proceed, there are often multiple issue-specific meetings with the subject matter experts and management. Depending on the nature of the issue, a particular remedy or issue may be elevated to the Administrator’s level. As appropriate, issues and remedies are coordinated with the Department of Justice or the U.S. Army Corps of Engineers (USACE) for their expertise, as well.

- c. Since many of the Task Force’s recommendations require further action, what is your timeline and plan for next steps?

Response: For most of the Task Force recommendations, next steps are underway and we continue to make progress addressing the action items for each recommendation. To date, substantive portions of several of the recommendations have been completed while implementation of many of the recommendations will commence in calendar year 2018. The Agency has created a Superfund Task Force website for the public (<https://www.epa.gov/superfund/superfund-task-force>) that includes quarterly updates on the progress made addressing the recommendations as well as information about opportunities for the public to participate.

The Honorable David McKinley

1. Mr. Administrator - when EPA finalized the “coal ash” regulations, they adopted in the self-implementing rule a “one-size-fits-all” approach that does not allow for the consideration of site specific, risk-based factors.

I appreciate that EPA has committed to reconsider elements of the rule. The timing of these revisions is critical to ensure that the power sector has regulatory certainty.

- a. Can you provide an update on how this process is going?

Response: EPA has made substantial progress in this task. At the present time, EPA has submitted a regulatory package to the Office of Management and Budget for interagency review containing proposed regulatory changes for those provisions where EPA has determined that regulatory changes are appropriate. EPA will complete its review of the remaining provisions under reconsideration, and, if it determines that regulatory changes are appropriate, will propose an additional rulemaking.

On November 15, 2017, pursuant to an order from the United States Court of Appeals for the DC Circuit, EPA submitted a status report indicating which provisions of the final CCR rule were being or were likely to be reconsidered by the agency and a timeline for this reconsideration. EPA further stated that it anticipated it would complete its reconsideration of all provisions identified in two phases. EPA indicated that in the first phase EPA would continue its process with respect to those provisions which were remanded by the Court to EPA in June of 2016. EPA also indicated that as part of Phase One it would review additional provisions to determine whether proposals to revise or amend some of these could be included in this initial phase. A number of the proposed changes that EPA intends to include in its proposal are associated with the Water Infrastructure Improvements for the Nation (WIIN) Act which provided States the ability to develop and submit to EPA for approval CCR permit programs. These permit programs must be no less protective than the federal CCR rule, but can provide for site-specific, risk based factors to be taken into consideration.

EPA also stated in the November status report to the court that it plans to complete review of all remaining matters not covered in the phase one proposal and determine whether to propose revisions to the provisions. EPA currently expects that if further revisions are determined to be warranted it intends to complete its reconsideration and take final action no later than December 2019.

2. As you know, a federal district court ordered EPA in January this year to begin to implement section 321 of the clean air act. This provision from the late 1970s provides that the administrator "shall conduct continuing evaluation of potential loss or shifts in employment..."
 - a. What are your plans for implementing this provision? What can you tell us about your timeline?

Response: EPA understands the importance of considering the cumulative impact of its regulations on the American public. EPA will conduct these evaluations consistent with the Clean Air Act.

- b. Will you work with me to identify whether statutory changes will help make for a more useful and transparent section 321 program?

Response: Yes. EPA is open to working on efforts to strengthen this provision

3. Small refineries have an inherent hardship in complying with the renewable fuel standards. These refineries do not have the ability to pass the rin cost on to their customers. It would put them at a competitive disadvantage to do so.

Congress has clearly stated its intent regarding this.

- a. What is the agency doing to address streamlining and improving the hardship petition process?

Response: The EPA understands the importance of the RFS program to multiple stakeholders, including small refineries. As directed by Congress, the EPA consults with DOE in evaluating these petitions—we consider DOE’s recommendations, along with other input and information, for each petitioning refinery and we aim to respond to each petition within 90 days of receiving all of the information necessary to conduct the evaluation. The EPA will continue to seek to improve its processes as it administers environmental regulations as Congress intended, and will work with stakeholders in achieving that goal.

4. Mr. Administrator – we understand that one of your objectives at EPA is a revised federalism, including providing the states with a greater partnership role with EPA in administering and implementing environmental laws in the respective states. Congress’ recent enactment of the WIIN act – which allows the states to implement the federal coal combustion residual – or “coal ash” – rules in lieu of the federal rule – is a perfect example of this philosophy and provides your administration with the opportunity to put this goal into action.

Unfortunately, however, we have heard from some of the states that EPA has been slow in reviewing and approving state program applications to operate the CCR rule in lieu of EPA. Indeed, we understand that not a *single* state application has been deemed complete by EPA, which is necessary to allow for the formal review process to begin.

- a. Can we get some assurances from you that the agency will accelerate this process?

Response: EPA understands the need to move expeditiously to review state programs and we are working closely with our state partners through this process. In a number of instances, states have determined that they need to revise their regulations before they can submit an application to EPA for program approval. In those instances, many states are consulting with EPA early in their process to help ensure that potential delays in reviewing and approving their final program will be minimized.

To date, EPA has received two applications for CCR permit program approval, one from the State of Georgia and the other from the State of Oklahoma. Georgia has asked that EPA not process their application further at this time as they are in the process of modifying some of their regulations. EPA determined Oklahoma’s application to be complete in December 2017, and on January 16, 2018, published a Federal Register notice announcing the agency’s intent to approve the Oklahoma CCR permit program. EPA is seeking public comment on this until March 2, 2018. Once the comment period ends, EPA will move expeditiously to review and address any comments received.

EPA is committed to working with our state partners on their CCR programs in a timely manner and will continue to do so.

5. The EPA's Air Enforcement Division sent an October 17 letter to the Ozone Transport Commission stating it "agrees that the 1986 [aftermarket catalytic converter emissions] policy is outdated." We encourage you to look into this issue. U.S. manufacturing jobs are threatened and U.S. consumers are already being harmed by this outdated policy.

Are you aware of how U.S. manufacturers of aftermarket catalytic converters are being severely impacted by an outdated EPA policy guidance that guides the industry?"

Response: EPA has met with the major U.S. catalyst manufacturers through their two primary trade associations. We understand these manufacturers are, in general, strongly supportive of an update to the policy.

The Honorable Marsha Blackburn

1. An Obama-EPA rule from 2016 would have required glider kit vehicles – which are made with *old* engines, and are not new vehicles – to comply with Phase 2 EPA greenhouse gas emission standards that were targeted solely for *new* vehicles and engines. This rule would have had a devastating impact on the state of Tennessee, resulting in a loss of \$512 million-dollars in economic output and a loss of 947 jobs. The rule would have been particularly harmful for small businesses that create and sell refurbished trucks using glider kits, providing an alternative in the medium and heavy-duty truck market that is 25% less expensive than buying a new truck. Mr. Pruitt, I want to thank you on behalf of the hundreds of Tennesseans who still have their jobs because of your common-sense action to reverse the previous administration's meritless and radical position.
 - a. Following up on that, do you agree that the needs of small business job creators should be taken into account when setting regulations that impact industries dominated by small businesses?
 - b. What can we do as a legislative body to ensure future abuses such as these do not take place again?
 - c. Can you discuss some of your efforts to reconsider regulations that pose an undue burden on small businesses?

Response: Yes. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires EPA to consider impacts of its rulemakings on small businesses. On March 24, 2017, the Administrator issued an agency-wide memorandum on implementation of the President's Executive Order 13777, directing EPA program offices to seek public input on existing regulations that may be appropriate for repeal, replacement, or modification and report findings to our Regulatory Reform Task Force. As a part of this effort, EPA offices conducted public outreach – including a meeting held by the Office of Small and Disadvantaged Business Utilization on April 25, 2017 to gain insight from small businesses on impacts of EPA's rules. EPA will continue to seek to improve its processes as we administer environmental regulations as Congress intended, and will work with all partners and stakeholders, including small businesses, in achieving that goal.

2. In accordance with the President's Executive Order 13777, your Agency began a process of reviewing EPA regulations in need of reform because they eliminate or inhibit job creation, are outdated, ineffective, or unnecessary, impose costs that exceed benefits, or create legal inconsistencies.

- a. What is the status of this review?

Response: Pursuant to Executive Order 13777, this review at EPA is ongoing. EPA recently released its Semiannual Agenda of Regulatory and Deregulatory Actions and Regulatory Plan that contains 101 active actions, including 54 deregulatory actions.

- b. What are your planned next steps?

Response: EPA plans to continue its work in reviewing regulations in accordance with E.O. 13777. EPA's latest work on regulatory reform can be found on its website: <https://www.epa.gov/laws-regulations/regulatory-reform>.

- c. What timeline do you envision for implementing the recommendations?

Response: While EPA continues to review the over 460,000 comments in response to EO 13777, it has started implementation of some of the recommendations and will continue this process as set forth in the Executive Order and related OMB guidance.

3. On November 30, 2017, EPA finalized volume requirements under the Renewable Fuel Standard (RFS) program for 2018 for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel, and biomass-based diesel for 2019. The 2007 law shaping the RFS required EPA to study and report to Congress on whether the RFS will adversely impact air quality. To date, EPA has never completed that study. EPA was also required to report to Congress on the RFS' impacts to the environment and resource conservation every three years. To date, EPA has issued only one report – in December 2011. Administrator Pruitt, when can Congress expect the EPA to comply with the law and provide the necessary studies?

Response: EPA is currently evaluating how quickly we can complete the study about air quality impacts (the "anti-backsliding" study required under Section 211(v) of the Clean Air Act). The Agency is currently working to complete in the spring of 2018 the report to Congress that addresses impacts to the environment and resource conservation (required under section 204 of the 2007 Energy Independence and Security Act).

The Honorable Gregg Harper

1. Mississippi is home to a significant forest products industry. The EPA, under the Obama Administration, drafted and imposed a wood products procurement regulation that allows only for Forest Stewardship Council – or FSC – certified products to be purchased by the government, which bars the purchase of products certified by other credible forest certification standards, such as the American Tree Farm System (ATFS) or Sustainable Forestry Initiative. This regulation, which is now under review, excludes a significant

number of family forest owners in the United States with homegrown products certified by other reputable standards. 1) Could you please provide a status update on the current review process? 2) What potential changes can be made to improve this policy that currently puts American forest owners at a disadvantage?

Response: EPA's previous action on this issue was carried out under the June 2015 "Implementing Instructions for Executive Order 13693: Planning for Federal Sustainability in the Next Decade," and was not an agency regulation. Based on stakeholder concerns and interagency discussions, the EPA recommendation for the lumber/wood product category was removed from the "Recommendations of Specifications, Standards, and Ecolabels for Federal Purchasing" in December 2016 and put on hold. Before further action on this product category, EPA will ensure coordination with the USDA Forest Service and USDA Natural Resources Conservation Service, Department of Energy, OMB, and CEQ to determine how forestry standards should best be evaluated. Once the federal agencies have had time to come to consensus, EPA would engage stakeholders to refine the Guidelines pertinent to evaluating the lumber/wood recommendation. This process is intended to provide a transparent, fair, and consistent approach to updating the EPA Recommendation of forestry certifications and assessing other commodities' extraction/harvesting related environmental impacts.

2. In the 113th Congress, EPA was provided discretion over the allocation of approximately \$12.7 million in annually appropriated EPA technical assistance funding. The EPA used the discretion to eliminate the two full-time circuit rider technical assistance positions in Mississippi and other states. In response to concern raised by my rural and small community water constituents, I introduced legislation to reauthorize and direct the technical assistance funding to where it is most helpful. Senator Wicker's companion bill was signed into law in 2015. I appreciate EPA's July 25, 2017, response to a June 9, 2017, Senate letter in which EPA committed to following the intent of the Grassroots Rural and Small Community Water Systems Assistance Act (PL 114-98). 1) Could you please provide an update on implementation of the law and the possibility of the two-full time circuit rider technical assistance positions being re-established in Mississippi?

Response: EPA recently published a Request for Applications for the national Training and Technical Assistance for Small Systems Grant, which follows the intent of the Grassroots Rural and Small Community Water Systems Assistance Act (PL 114-98). The application period closed in December 2017, and the agency is currently reviewing applications. The grant awardees will be selected by early spring of this year.

The Honorable Bill Johnson

1. As is true in a lot of areas around the country, job creators in my district are having a difficult time obtaining New Source Review air permits in order to build or upgrade manufacturing facilities or power plants, which is hurting our local economy and employment opportunities. And, as the recent DOE report on electricity markets and grid reliability further emphasizes, "NSR creates an unnecessary burden that discourages... investments in efficiency because of the additional expenditures and delays associated with the permitting process".

- a. Do you agree that issuing New Source Review permits takes too long and is unnecessarily complex?
- b. What is EPA doing to assess the impact of current NSR review requirements on decisions to modernize facilities and power plants?
- c. What reforms may EPA make administratively to improve the New Source Review permitting program so that we can continue to improve air quality and achieve economic growth?

Response: Under the current Administration, as directed by a Presidential Memorandum and Executive Orders, the EPA has solicited and received stakeholder input on streamlining its regulatory programs and reducing burden on manufacturing and other industry sectors. Stakeholders have specifically identified the NSR permitting programs as an area of concern and have recommended specific reforms. EPA identified the NSR program as one of the policy areas for review under EO 13783 to further the goal of reducing unnecessary burdens on the development and use of domestic energy. In addition, Assistant Administrator Bill Wehrum has spoken publicly about his priorities for the Office of Air and Radiation, which include a number of targeted improvements to the NSR programs. EPA has also already taken action related to NSR permitting including issuing memorandums to Regional Administrators related to determining major modification applicability (https://www.epa.gov/sites/production/files/2017-12/documents/nsr_policy_memo.12.7.17.pdf) In the meantime, EPA will continue to provide assistance to regulated sources and state and local permitting authorities to resolve case-specific NSR permitting issues, as needed. EPA stands ready to assist state permitting authorities implementing the NSR permitting programs and address any issues that are impeding or delaying permit approvals across the nation, including those in your District. In addition to the NSR program improvements mentioned above, the EPA has established a Kaizen team that is tasked with applying lean tools to improve the efficiency of the EPA's permit issuance process and address the concern regarding the NSR permitting process and timeframes.

The Honorable Kevin Cramer

1. After 2022, EPA is required to set volumes for total renewable fuel, advanced biofuel, cellulosic biofuel, and biomass based diesel. The assumption is the total renewable fuel volume would contain some amount of conventional biofuel. The statute, however, does not set a minimum amount for conventional biofuel because it does not specify a minimum volume for the total renewable fuel. Thus, EPA could set the total renewable fuel volume as the same as the advanced biofuel volume.
 - a. Does the current statute have a specific requirements for corn-based ethanol until 2022?
 - b. Does the statute require a minimum volume of total renewable fuel for each year following 2022?
 - c. Is it your belief that after 2022, the RFS gives significant preference to advanced biofuels over conventional corn-based ethanol?

Response: The statute does not have a specific requirement for corn-based ethanol before (or after) 2022. The statute also does not specify a minimum volume of total renewable fuel after 2022. The CAA sets forth an extensive list of factors to be considered in setting standards after 2022. We have not yet evaluated how consideration of those factors may relate to various types of renewable fuels.

2. The implied mandate for corn-based ethanol is set at 15 billion gallons until 2022. As the statute is written today, do you view this 15 billion gallons as a ceiling or a floor?
 - a. If floor: What in the statute leads you to believe the RFS will require more than 15 billion gallons of corn-based ethanol?

Response: The 15 billion gallon implied mandate, commonly referred to as the “conventional renewable fuel” mandate, is not specific to ethanol. The majority of that implied mandate, however, is historically met by corn-based ethanol. That volume is not a ceiling, since the standards under the RFS program do not limit the amount of ethanol that can be used. If there is demand for more than 15 billion gallons of ethanol and the market can supply it, more than 15 billion gallons can be used.

However, neither is the 15 billion gallon mandate for conventional renewable fuel a floor. If use falls below 15 billion gallons, the shortfall can be met with other non-ethanol conventional or advanced renewable fuels, such as biodiesel and renewable diesel.

Nothing in the statute requires more than 15 billion gallons of conventional renewable fuel. Indeed, there is no specific requirement in the statute for any particular volume of ethanol.

3. The prior Administration proposed the Renewable Enhancement and Growth Support (REGS) Rule in 2016 and took comment on the potential for capturing RINS from renewable electricity used to charge electric vehicles.
 - a. Where does this proposal currently stand?
 - b. Is the EPA planning to continue to finalize the REGS Rule?

Response: Since the REGS proposed rule comment period closed, OAR staff have been going through the many comments received, evaluating the various implementation options raised by the comments, and exploring options for resolving the complex issues associated with implementing the electric pathway. We continue to work towards a final decision on these important issues.

4. A number of ethanol producers in my state have talked to me at length about the benefits of high-octane fuels which are said to provide substantial engine efficiency benefits. They indicated a wealth of information has been provided to the EPA in support of such a fuel with 30 percent ethanol.
 - a. Can automakers now certify their engines on these fuels?
 - b. If not, why not? If so, what is the process?

Response: Although E30 is not currently an approved test fuel for certification purposes, EPA regulations allow vehicle manufacturers to request permission to use test fuels other than those specified by EPA, and provide that EPA will generally allow use of an alternative test fuel if the manufacturer can satisfy certain factors to ensure that the proposed test fuel reasonably reflects the fuel on which the vehicle will operate in the real-world.

The Honorable Tim Walberg

1. Administrator Pruitt, one of the priorities of this Subcommittee has long been to, where appropriate, give more authority to the states and it has been suggested that there are aspects of the Superfund program that would be better handled by the states.
 - a. What are your thoughts on delegating portions of the CERCLA cleanup authority to states that can demonstrate the ability to conduct certain superfund cleanups?

Response: It is not necessary at this time to change the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to add additional delegation of authority to the states. The partnership between EPA and the states is an existing cornerstone principle under CERCLA and the National Contingency Plan. CERCLA includes key roles for states in the federal Superfund remedial program, and where appropriate, enables states to be designated as the lead agency for remedial action. In addition, EPA's policy calls for state concurrence in listing sites on the National Priorities List (NPL) and consults with the states on cleanup decisions. Through cooperative agreements, EPA provides states with funding to conduct work under the Superfund program including, but not limited to, site assessment, site characterization, review of remedy decision documents, remedy implementation and enforcement actions. In FY 2017, EPA provided approximately \$58 million to states to conduct activities at NPL sites, and to support state Superfund programs. Cost recovery authority is available to states under CERCLA.

Separately, state cleanup programs already address a wide variety and large number of contaminated sites that do not make it on the NPL. EPA will continue to seek and expand opportunities afforded by the existing statute to work closely with states to efficiently leverage our respective cleanup resources.

2. At present, there are no standard EPA methods for analyzing PFAS in environmental media, but EPA officials have stated the agency will have draft methods for water and solids by fall 2017. For the purpose of Michigan's continued engagement on this critical issue, as well as the betterment of EPA's developing approach to addressing PFAS nationwide, when do you expect these methodologies will be complete?

Response: EPA has developed a widely used technique for PFASs in drinking water. The method addresses PFOA, PFOS and 4 other PFASs measured during the third cycle of the Unregulated Contaminant Monitoring Rule (UCMR 3), as well as 8 additional PFASs. EPA is aware of the urgency and need for methods to measure multiple PFAS in multiple media. EPA is working to develop additional validated sampling protocols and laboratory methods for measuring and detecting more than 20 PFAS in ground water, surface water, waste water, and solids in 2018. The methods will include appropriate QA/QC measures that give us confidence in the accuracy, precision, and sensitivity of the method.

3. The EPA issued a drinking water health advisory for PFAS in May 2016, however, the advisory is non-enforceable and non-regulatory. Do you foresee changes to EPA's role in regulating PFAS contamination at the national level?

Response: EPA is currently conducting the scientific data collection and analysis called for under the Safe Drinking Water Act to evaluate PFOA and PFOS. EPA included PFOA and PFOS on the fourth Contaminant Candidate List (CCL) published in 2016. The CCL is a list of contaminants that are known or anticipated to occur in drinking water that may require regulation. Additionally, approximately 5,000 public water systems monitored drinking water for PFOA and PFOS as part of the third cycle of the Unregulated Contaminant Monitoring Rule (UCMR 3). UCMR represents the Agency's current effort to characterize the levels at which particular unregulated contaminants are occurring in drinking water and measure the frequency of that occurrence on a national basis. EPA will consider occurrence data along with health effects information to determine whether to initiate the process to develop a National Primary Drinking Water Regulation (NPDWR) under Regulatory Determination 4. EPA anticipates completing the next Regulatory Determinations in 2021.

4. In the Motor Fuels Act of 1988 Congress established a variety of alternate fuel incentives to be used by NHTSA in the administration of the CAFE fuel economy regulations. EPA originally used the same statutory incentives as NHTSA therefore vehicle emissions and fuel economy incentives were harmonized. But in 2012, under the previous administration, EPA diverged from this harmonization by favoring electric vehicles over other alternative fuel vehicles thereby nullifying Congressional intent. Do you think it would be good policy for EPA to return to its previous approach and harmonizing its emissions incentives with NHTSA's fuel economy incentives?

Response: EPA received a variety of comments during our recent public comment period regarding harmonization with CAFE and the treatment of alternative fuel vehicles in EPA's GHG standards program, including natural gas, ethanol, and electric vehicles. We will continue to consider those comments, along with other best available information, as we move forward with the Mid-term Evaluation reconsideration.

The Honorable Buddy Carter

1. The EPA issued a review of the Phase 2 Greenhouse Gas Rule for Medium and Heavy-Duty Trucks and in November the EPA issued a statement on the review of glider kits. However, we haven't seen any announcements about progress with truck trailers. Are you currently reviewing trailers as part of the rule and if so, what is the status? Please provide an update on the rulemaking process and any progress that has been made.

Response: EPA is currently conducting a legal and policy review of the trailer provisions of the Phase 2 Rule for Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles.

2. Which recommendations from the Super Fund Task Force have been implemented?

Response: To date, EPA has completed the initial steps for implementing several recommendations, including the development and release of the Administrator's Emphasis List (<https://www.epa.gov/superfund/superfund-sites-targeted-immediate-intense-action>), the Redevelopment Focus List (<https://www.epa.gov/superfund-redevelopment-initiative/superfund-redevelopment-focus-list>), and the FY 2017 Deletion and Partial Deletions List. We recently released the Human Exposure Not Under Control Measure Dashboard (<https://www.epa.gov/superfund/superfund-human-exposure-dashboard>) which will track progress of sites where human exposure pathways continue to exist. While substantive portions of several of the recommendations have been completed, implementation of many of the recommendations will commence in calendar year 2018. The Agency has created a Superfund Task Force website for the public (<https://www.epa.gov/superfund/superfund-task-force>) that includes quarterly updates on the progress made addressing the recommendations as well as information about opportunities for the public to participate.

3. The EPA recently announced the full or partial removal of Superfund sites from the National Priorities List. How many cleanups will the EPA pursue in 2018 and what will those be?

Response: The number of sites to be deleted in 2018 will depend on the number of sites that the agency determines no further response is appropriate and one of the following criteria consistent with existing EPA guidance (<https://www.epa.gov/superfund/superfund-npl-deletion-guidance-and-policy>) has been met:

- EPA, in conjunction with the state, has determined that responsible or other parties have implemented all appropriate response action required;
- EPA, in consultation with the state, has determined that all appropriate Superfund-financed responses under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) have been implemented and that no further response by responsible parties is appropriate;
- A remedial investigation/feasibility study has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

Thus far in FY 2018, the agency has deleted one site (Nutting Truck & Caster Co. in Minnesota), and announced the intent to delete three additional sites (Vancouver Water Station #1 and Vancouver Water Station #4 in Washington, and C & D Recycling in Pennsylvania). EPA has also announced the intent to delete a portion of the Pacific Coast Pipe Lines site in California. The agency will be making a final decision on these four pending deletion activities after reviewing public comments.

Pursuant to the Superfund Task Force recommendations and Administrator Pruitt's stated priorities, EPA will closely monitor other potential sites that may meet the relevant statutory criteria in an effort to maximize deletions and partial deletions in 2018. As many as 27 sites are currently being reviewed for potential deletion or partial deletion. However, at this point in time, because many steps must occur to achieve a deletion, EPA is anticipating approximately ten full or partial deletions in FY 2018 as a conservative estimate.

4. In June, the EPA announced an interim remedy for the Superfund site located at Terry Creek in my district. What is the status of that effort?

Response: On June 19, 2017, EPA signed an Interim Record of Decision (IROD) for Operable Unit 1: Outfall Ditch. The State of Georgia Environmental Protection Division (GAEPD) concurred with the IROD for Operable Unit 1. The major components of the remedy include:

- Re-routing the existing stormwater ditch into a newly constructed concrete-lined ditch;
- Excavation and offsite disposal of impacted sediment near Glynn Avenue to construct the new concrete-lined ditch;
- Removal of the existing weir across the Outfall Ditch;
- Placement of geo-textile fabric over existing sediment in the Outfall Ditch;
- Backfilling the Outfall Ditch with compacted clean soil;
- Armoring the backfill slope at the confluence with Dupree Creek;
- Development of a long term monitoring plan to ensure effectiveness of the interim remedy; and
- Implementation of institutional controls such as an environmental covenant prescribing land use and activity restrictions to prevent unauthorized disturbance of the soil cover and other interim remedy components.

On September 29, 2017, EPA sent Hercules, the Potentially Responsible Party, a special notice letter to begin the negotiations relating to the Consent Decree for Operable Unit 1: Outfall Ditch. Hercules responded to EPA with a good faith offer on January 3, 2018. This offer is currently being reviewed by EPA and the Department of Justice.

EPA will continue to work with Hercules during the consent decree negotiation process. After the consent decree has been finalized remedial design for the implementation of the remedy at Operable Unit 1 will begin.

5. This committee has been looking to make sensible reforms to the program. Are there any legislative actions that this committee would need to take to aid in reforming the program?

Response: At this time, EPA does not have any suggested legislative actions to reform the Superfund program. However, EPA can provide technical assistance for any proposed legislative actions that the Committee develops.

The Honorable Michael Burgess

1. In my State of Texas, we have become too familiar with the EPA making examples of a few people to scare everyone else into compliance. Could you explain why you are intentionally moving away from heavy handed regulatory treatment and moving more toward building partnerships with States and industry to improve the environment?

Response: EPA's FY2018-2022 Strategic Plan, discusses EPA's priorities for strengthening working relationships with states and industry to create tangible environmental results for the American people. The plan also discusses the reasons why these partnerships are necessary.

- Goal 2, "Cooperative federalism – the relationship between states, tribes and EPA – is not just about who makes decisions, but about how decisions are made and a sense of

shared accountability to provide positive environmental results. EPA understands that improvements to protecting human health and the environment cannot be achieved by any actor operating alone, but only when the states, tribes, and EPA, in conjunction with affected communities, work together in a spirit of trust, collaboration, and partnership.” (FY 2018-2022 EPA Strategic Plan: February 12, 2018, p.21)

- Goal 3, “Rule of Law and Process,” discusses how EPA, “[o]ver the next five years, EPA will reinvigorate its approach to regulatory development and prioritize meeting its statutory deadlines to ensure that expectations for the regulated community and the public are clear and comprehensive and that Agency actions are defensible and consistent with its authorities. The Agency will use new approaches and flexible tools to minimize regulatory uncertainty and will communicate more comprehensively to realize more consistent and better environmental outcomes, while centering work on statutory and regulatory obligations. EPA will strengthen working relationships with industry sectors to better understand their needs and challenges in implementing Agency requirements and with communities to understand their concerns. This knowledge will enable the Agency to develop better policies and regulations to protect human health and the environment in line with the authorities given to EPA by Congress.” (FY 2018-2022 EPA Strategic Plan: February 12, 2018, p. 33)
2. Some of your critics view the EPA as if it’s a factory; where success is measured by the quantity of rules issued, grants passed out, or enforcement cases brought. Rarely do people size up EPA by compliance achieved or improvements in the environment. What goals, budgetary or otherwise, are you setting for individual programs and what metrics are being used to measure progress or success of an office or program?

Response: EPA is currently setting up a process to evaluate management practices and measure agency outcomes, including measuring permitting decisions, and the monitoring of air and water quality. The goal of this monitoring is to identify areas within the agency that need to be strengthened, and to streamline how the agency operates by reducing/eliminating wasteful processes. EPA’s offices plan to periodically measure progress.

3. I’d also like to touch on the spill at the Gold King Mine. Shortly after the spill occurred there, I visited the mine to observe the impact myself and was shocked by the severe the damage was at that time. Could you please provide me an update on the situation there and the status of the claims brought by the victims?

Response: EPA continues to treat all water flowing from the mine, about 600 gallons per minute. In 2017, a flow control structure was installed near the entrance to the mine to help meter the flow of water. In 2018, we will continue to treat all water from the Gold King Mine. The Gold King Mine is one of 46 mine features and two study areas identified in the Bonita Peak Mining District which was included on the National Priorities List in September 2016. We are currently undertaking the Remedial Investigation for the mining district.

EPA is reviewing the tort claims that were submitted to EPA and denied by the previous Administration that Administrator Pruitt committed to reconsider, as well as additional claims submitted to EPA in 2017 that have not been acted upon. For the previously denied claims, EPA

contacted each of the claimants in July 2017, to inform them of the new review and provided an additional three months for them to provide additional information they thought relevant.

EPA's Office of General Counsel has established a team of attorneys who are undertaking a thorough review of each of the claims, which involves an analysis of the facts, the relevant federal and state law (which varies depending on the nature of the claim, the state, and underlying facts), and the supporting material provided by the claimants. EPA anticipates completing its review of all the claims in the coming months and will announce its decisions on individual claims once the review is completed.

4. EPA's authority to use the Title 42 hiring authority derives from an appropriations rider and not legislation originating from either the House Energy & Commerce or Senate Environment & Public Works Committees. Does the EPA intend to continue to use Title 42 to hire and pay new and existing employees under this authority?

Response: EPA uses all of its available mechanisms to attract and retain highly skilled science and engineering staff in EPA's research and development programs, including special hiring authorities, like Title 42. EPA has used this special hiring authority since 2006 with positive results and achievements. EPA has made changes recommended by the National Academy of Sciences to improve the Title 42 program for future Title 42 hires.

- a. Does EPA intend to formally ask the authorizing committees for special hiring authority or will it continue to base its authority on the appropriations rider?

Response: EPA has met with both the House Energy and Commerce and the House Space, Science, and Technology committees about its use and need for a special hiring authority. The Title 42 authority is critical to the Agency's ability to compete for the best and brightest researchers in academia, private industry to ensure it has the critical outstanding scientific experts to meet the Agency's strategic goals. In order to ensure EPA does not lose existing Title 42 staff or miss opportunities to hire excellent staff under the authority, EPA continues to request the use of current authority in the FY2019 Budget.

- b. Has EPA ever formally or informally requested such authority from the authorizing committees? If so, when?

Response: EPA has briefed its authorizing committees on the need for special hiring authority several times. This includes meetings in 2010, 2011, 2012, and 2014. In addition, Section 2 of Reorganization Plan No. 3 of 1970 delegates to the EPA Administrator the functions vested in the Secretary of Health, Education, and Welfare ("HEW", now Health and Human Services) including those under 42 U.S.C. 209.

- c. Has the EPA ever proposed language similar to the Title 42 hiring authority be included in any of its authorizing legislation?

Response: EPA has worked with its authorizing committees to discuss the importance of Title 42 authority to the Agency's ability to fulfill its mission. EPA would gladly work with its authorizing

committees on language that would continue to provide the Agency with this critical workforce tool.

- d. Does EPA intend to continue to request that the Appropriations Committee include this rider in future appropriations legislation?

Response: Yes, Title 42 provides EPA with an important tool to make critical workforce investments needed to accomplish its mission. Without the authority ORD would have trouble competing for pre-eminent talent, would likely lose essential scientific experts to other organizations, and would lose the flexibility in our workforce needed to quickly address the nation's most pressing environmental concerns.

- e. Does EPA intend to ask the Appropriations Committee for any increase to the currently allowed number of employees it may pay under Title 42?

Response: No. The FY 2019 Budget does not request an increase in the number of Title 42 employees.

The Honorable Frank Pallone

Superfund:

During the hearing, you suggested that you proposed cutting the budget for Superfund cleanups because more money is not needed. You also said that there are very few orphan sites, meaning sites that will require public cleanup funds. However, in 2015, the Government Accountability Office found that as federal funding for cleanups has declined, the number of construction completions and remedial action completion declined while the number of National Priority List sites remained constant. In other words, less money buys fewer needed cleanups.

1. How many sites, exactly, on the National Priority List require public cleanup funds?

Response: As of the end of FY 2017, there were 245 remedial action projects to construct and/or operate remedies at 198 Superfund sites using appropriated funds. In addition, as of the end of FY 2017, there were 18 unfunded construction projects requiring appropriated funding. Appropriated funds are currently paying for 253 remedial investigation/feasibility study (RI/FS) projects at 204 sites and 135 remedial design projects at 100 sites.

Environmental Justice:

Since the issuance of Executive Order 12898 in 1994, EPA has been required to incorporate the goal of environmental justice into its mission. As part of that executive order, and in keeping with Title VI of the Civil Rights Act of 1964, EPA is required to ensure all of its activities that affect human health and the environment do not directly or indirectly discriminate on the basis of race, color, or national origin.

2. What are you doing to ensure that EPA's response and recovery efforts in Puerto Rico and the U.S. Virgin Islands comply with the Executive Order on environmental justice and the Civil Rights Act?

Response: EPA is very mindful that many of the communities hardest hit by Hurricanes Irma and Maria are underserved communities that face economic challenges every day. In general, the agency's work comes through mission assignments given by FEMA that are based on identified needs from the U.S. Virgin Islands and Puerto Rico governments, as well as local governments. Understanding the limitations of these governments and communities, EPA has taken extra steps to work closely with government officials from Puerto Rico and the U.S. Virgin Islands, as well as from municipalities in Puerto Rico, to help them identify needs and prepare requests for federal help. We have also worked to connect the Puerto Rico and U.S. Virgin Islands governments to other sources of help, where needed. Region 2 also has deployed community involvement coordinators across Puerto Rico and the U.S. Virgin Islands. An important part of their role is to ensure that community concerns are promptly addressed.

Just a few days after taking office, EPA's Regional Administrator for Region 2 visited both Puerto Rico and the U.S. Virgin Islands to observe the situation on the ground and ascertain where there might be unmet needs. There are many examples of EPA responding to these needs, which include the EPA working closely with FEMA and NGOs to provide food, water and supplies where we encountered communities that had not yet been visited by other responders. In addition, the EPA worked with NGOs to bring solar power and other alternative energy sources to help re-activate small drinking water systems that are not run by the Puerto Rico Aqueduct and Sewer Authority. In addition, Regional Administrator Lopez met with community leaders, including in the hard-hit Martin Pena Canal community to reinforce our commitment to help them get the help they needed. In that case, we worked with the U.S. Corps of Engineers to obtain technical guidance and funding for dredging the canal.

3. What have you been doing to ensure that EPA's response and recovery efforts in Texas comply with the Executive Order on environmental justice and the Civil Rights Act?

Response: During the Hurricane Harvey response, many of the communities impacted by the Harvey were poor or minority communities next to industrial facilities. EPA and the Texas Commission on Environmental Quality gave priority attention to community complaints of possible releases and spills of hazardous materials and oil throughout the response to the hurricane. For example, EPA deployed the Trace Atmosphere Gas Analyzer (TAGA) bus to provide real-time air quality data in the Manchester area of Houston following complaints of volatile organic compound odors. Inspections and tests were conducted at large oil and chemical facilities, drinking water and waste water facilities, pipelines, refineries, Risk Management Plan facilities and oil storage facilities.

EPA also deployed Community Liaisons to work with county Emergency Operation Centers in the more than 30 counties to provide information on reentry, disposal of household hazardous waste, recycling white goods, indoor mold remediation, debris removal, and water well disinfection of individuals dealing with potential hazards in damaged or lost homes.

4. What direction, if any, have you given to your Regional Administrators and other regional staff with regard to ensuring environmental justice in EPA's hurricane response? Please provide any memoranda or email correspondence you or your staff have sent to regional staff on the subject of environmental justice and hurricane response.

Response: In EPA Region 2, Regional Administrator Pete Lopez has directed staff to make every effort to help communities across the U.S. Virgin Islands and Puerto Rico, particularly those communities that are underserved. He has also focused on building local capacity where there are gaps and is the EPA's representative on a high-level recovery workgroup that is focuses on leveraging resources to provide the assistance needed not just respond to the hurricanes, but to recover from their impacts and prepare for the impacts of future storms.

Regional Administrator Lopez leads a call (which was daily and now is three times a week) with a wide range of EPA response staff, to raise and discuss issues that the government of Puerto Rico or the U.S. Virgin Islands or a local community may be having and to find ways in which the EPA can help or point them to the appropriate federal partner if it falls outside of our mission. EPA is paying particular attention to underserved, rural communities.

As noted above, in the early months of the response, EPA responders were often the first people into some less accessible areas of Puerto Rico. In those instances, we worked with FEMA and NGOs to bring in food, water and supplies to these communities. The EPA continued its work in many of these communities alongside the non-governmental organizations Water Mission, Samaritan's Purse, Project Hope, and RCAP Solutions to assist the estimated 76,000 Puerto Rico residents in over 200 communities across the island that rely on drinking water sources from pumps and wells and surface water that are not supplied by the Puerto Rico Aqueduct and Sewer Authority (PRASA).

In EPA Region 6, EPA staff used long-standing local Environmental Justice networks to learn what further needs existed and reported that information to operation centers in Port Arthur/Beaumont, Corpus Christi, and Houston. The Region also established a dedicated Environmental Justice email address where constituents could submit specific concerns directly to Region 6 where those concerns channeled to the appropriate area for response and then the constituents were contacted about the resolution of their concerns. An EJ Harvey Network was also established of EJ Advocates in the impacted areas. Weekly calls were held to update the community on activities that had/were occurring in response to the hurricane, listen to concerns and elevate appropriate issues to the Region. Guidelines for working with Environmental Justice were issued to response staff and improving EPA response to Environmental Justice issues is included in the Region's review of performance.

5. Who on your staff is tasked with coordinating response efforts across the regions to ensure equal treatment for the people of Puerto Rico and the U.S. Virgin Islands?

Response: Every single person involved within the EPA's response is tasked with ensuring equal treatment for the people of Puerto Rico and the U.S. Virgin Islands. This ethic is at the core of EPA's mission to protect people's health and the environment and is embraced by EPA staff across the country. This is reinforced throughout the entire incident response structure, including by the Regional Administrator and senior managers.

Since assuming your position as Administrator, you have delayed or abandoned numerous rules and regulations that would have protected vulnerable communities.

6. Do you believe that your decision to abandon EPA's proposed ban of the dangerous pesticide chlorpyrifos complies with the Executive Order on environmental justice and the Civil Rights Act?

Response: EPA's actions on chlorpyrifos complied with applicable Executive Orders and statutory obligations.

7. Do you believe that your decision to delay the important amendments to the Risk Management Planning program complies with the Executive Order on environmental justice and the Civil Rights Act?

Response: EPA's actions on the Amendments to the Risk Management Plan Rule complied with applicable Executive Orders and statutory obligations.

8. Do you believe that your actions delaying notifying communities that are out of attainment with the 2015 ozone National Ambient Air Quality Standard complies with the Executive Order on environmental justice and the Civil Rights Act?

Response: EPA's actions regarding the 2015 ozone NAAQS have complied with applicable Executive Orders and statutory obligations.

9. Do you believe that your decision to repeal the Clean Power Plan complies with the Executive Order on environmental justice and the Civil Rights Act?

Response: EPA has solicited comment on a proposal to repeal the Clean Power Plan and an advanced notice of proposed rulemaking regarding a potential new rule. In doing so, it will comply with applicable Executive Orders and statutory obligations.

10. Do you believe that your decision to delay revisions to the Lead and Copper Rule complies with the Executive Order on environmental justice and the Civil Rights Act?

Response: The Lead and Copper Rule was promulgated in 1991 and has not been significantly updated since that time. EPA has announced that it will undertake efforts to update the rule to strengthen drinking water protections in accordance with applicable Executive Orders and statutory obligations.

Management of Toxic Pesticides:

11. Documents reveal that Monsanto employees may have ghostwritten scientific papers on glyphosate, including papers published in the journal Regulatory Toxicology and Pharmacology, which has an editorial board populated by industry scientists, lawyers and

consultants with clear financial ties to the chemical industry. Has EPA relied on those studies in its evaluation of glyphosate?

Response: The Agency has used two articles from Regulatory Toxicology and Pharmacology journal for the evaluation of glyphosate (Mink et al., 2012; Williams et al., 2000). Both of these are considered to be review articles. Review articles survey the literature to identify previously published journal articles relevant to a specific topic, summarize and/or analyze the data of those studies, and in some cases make overall conclusions regarding the findings. Review articles can serve as a source for finding original journal articles on a particular topic. Glyphosate has been the subject of multiple review articles in addition to these two. The Agency performed its own independent review of the original journal articles. The Agency did not rely on the interpretation of data by the authors of the Mink et al (2012) and Williams et al (2000) articles.

12. Did EPA rely on studies from that journal in its decision to deny the petition to ban chlorpyrifos?

Response: EPA considers and performs its own independent review of studies in multiple journals, including Regulatory Toxicology and Pharmacology. The reference section of the pesticide registration review assessments and supporting documents lists the studies considered. Studies from the journal Regulatory Toxicology and Pharmacology are referenced in the 2014 revised Human Health Risk Assessment, and in the materials prepared for a meeting of the 2016 FIFRA Scientific Advisory Panel. No studies from the journal were utilized in forming the basis for the Agency's March 2017 decision to deny the chlorpyrifos petition.

13. In 2015, the Food and Drug Administration (FDA) agreed with recommendations from GAO¹ that glyphosate monitoring should be done, but subsequently suspended its efforts to conduct that monitoring.² Documents suggest that this decision may have been made under pressure from an EPA employee working with Monsanto. Please provide any email or other correspondence between EPA employees and FDA employees regarding glyphosate monitoring.

Response: Multiple federal government agencies share responsibility for the regulation of pesticide residues in or on food. While the EPA registers the use of pesticides and establishes the residue limits, i.e. tolerances, for the amount of pesticides that may remain in or on food, the FDA is responsible for enforcing the tolerances. According to FDA's website (<https://www.fda.gov/Food/FoodborneIllnessContaminants/Pesticides/ucm583711.htm>), its regulatory pesticide residue monitoring program selectively tests a broad range of imported and domestic commodities for approximately 700 pesticide residues. Due to the shared regulatory responsibility between EPA and FDA for pesticide residues in or on food, the two agencies correspond from time-to-time on specific pesticides including glyphosate.

¹ U.S. Government Accountability Office, "Food Safety: FDA and USDA Should Strengthen Pesticide Residue Monitoring Programs and Further Disclose Monitoring Limitations" (Nov. 6, 2014).

² Gillam, C. *FDA Suspends Testing for Glyphosate Residues in Food* (Nov. 11, 2016) (http://www.huffingtonpost.com/carey-gillam/fda-suspends-glyphosate-r_b_12913458.html)

Due to the amount of time required for a comprehensive search and review process I encourage you to reach out to my staff regarding your request for communications between the EPA and the FDA and we would be happy to discuss how to accommodate this request

14. EPA's March 30 decision on chlorpyrifos will allow continued use of this dangerous pesticide on golf courses. Did trade associations representing the Trump Organization golf courses, or lobbyists who represent the Trump Organization, communicate with EPA, the White House, or the Trump transition team regarding the March 30 decision or chlorpyrifos in general?

Response: Subsequent to the arrival of the new administration in January 2017 and prior to the March 2017 announcement, EPA's Office of Pesticide Programs did not have any engagement with the above-referenced organizations regarding the March 30, 2017, decision.

Transparency:

Nearly thirty-five years ago, in his landmark "Fishbowl Memo," Administrator Ruckelshaus announced that he would release his appointment calendar on a weekly basis, and he directed the Deputy Administrator and all Assistant Administrators, Associate Administrators, Regional Administrators, and Staff Office Directors to do the same. Administrator Ruckelshaus emphasized that "EPA will not accord privileged status to any special interest group" and that the public should be "fully aware of [top officials'] contacts with interested persons." In the intervening decades, Administrators serving under both Democratic and Republican Administrations have upheld this practice. But your senior management team has yet to release its calendars, undermining agency transparency and raising questions about who may be accessing and influencing top EPA officials. EPA has recently provided the public with a "summary" of your calendar, and provided some heavily redacted records of your calendar through March 31. But the agency still has not released the actual records of your daily calendars since March, despite numerous FOIA requests for them.

15. Will you commit to making your schedule public on a regular basis, so that Congress, the press, and ordinary Americans can see who you are meeting with?

Response: My calendar is publically available at: <https://www.epa.gov/senior-leaders-calendars/calendar-scott-pruitt-administrator>

16. Will you commit to directing your senior officials to release their calendars on a regular basis?

Response: Calendars for senior officials are publically available at: <https://www.epa.gov/senior-leaders-calendars>.

We are also concerned about delays in EPA's response to FOIA requests under your administration. EPA's failure to meet the deadlines specified in the Freedom of Information Act results in legal violations, which then subject EPA to repeated lawsuits.

17. Given the legal expenses and waste of resources caused by EPA's failure to comply with FOIA deadlines, do you agree that EPA should streamline the review process for release of documents to eliminate any unnecessary steps, such as multiple levels of document review?

Response: EPA is committed to processing FOIA requests in a timely and accurate manner and to enhancing its FOIA processes to be as efficient as possible, as indicated in EPA's Draft FY 2018 – FY 2022 EPA Strategic Plan (<https://www.regulations.gov/docket?D=EPA-HQ-OA-2017-0533>). EPA will conduct a lean event in the second quarter of FY 2018 to identify ways to streamline the Agency's FOIA processes. Implementation of the outcomes of this lean event is expected to begin in the fourth quarter of FY 2018. EPA has also proposed a reorganization of its National FOIA Program to increase the effectiveness, accountability, and visibility of the program by placing all FOIA-related program and legal responsibilities in offices under the Office of General Counsel.

18. Do you think it is appropriate for political appointees and advisors to hold up the release of document for further review, even when documents have already been determined to be public documents not subject to FOIA exemptions by FOIA officers and FOIA attorney advisors?

Response: As part of the Agency's Strategic Plan, EPA is committed to reducing its backlog and meeting statutory deadlines for responding to FOIA requests. In conformity with the EPA FOIA Policy (https://www.epa.gov/sites/production/files/2015-03/documents/cio_2157.1.pdf), all responses to FOIA requests must be reviewed by two knowledgeable individuals before a request is released to the public. These individuals may be subject matter experts and must include one manager.

19. Why would it be necessary for the documents to undergo a political review if they are public documents under the law?

Response: A record processed under the FOIA does not become public until it has been reviewed for any applicable exemptions, and until it is approved for release by an authorized official. In some circumstances, it may be appropriate for senior Agency officials – both career and politically appointed -- to be made aware of pending document productions. EPA is working to streamline its FOIA process to ensure that timely and accurate processing is achieved.

20. It appears that EPA has now adopted a policy of responding to FOIA requests based only or primarily on the date of the request, regardless of the type of information requested, the simplicity of the request, or the relevance of the information to the public. Is that correct?

Response: EPA, consistent with the FOIA and the Agency's regulations, generally works to process FOIA requests on a first-in/first-out basis. EPA currently has a decentralized FOIA process, in which requests are processed in each of the 12 EPA Headquarter offices and each of the 10 regional offices. Most EPA offices have two processing tracks: simple and complex. If expedited processing has been granted for a specific request, that request may be processed ahead of other non-expedited requests.

21. If not, please describe in detail the criteria that EPA is now using to prioritize processing FOIA requests?

Response: EPA, consistent with the FOIA and the Agency's regulations, generally works to process FOIA requests on a first-in/first-out basis.

22. Given EPA's large backlog, under your current approach, how long will it be before you respond to a substantial number of requests regarding your tenure and release documents generated during your tenure (besides those documents that EPA releases when a lawsuit is filed)? Please provide an estimate in weeks, months, or years.

Response: The table below provides information on FOIA requests the Agency has received and closed in recent months:

Month	Received	Closed as of January 26, 2018 *
January 2017	957	897
February 2017	897	818
March 2017	1180	1040
April 2017	1036	901
May 2017	1165	1007
June 2017	1101	936
July 2017	962	795
August 2017	988	795
September 2017	850	641
October 2017	1147	863
November 2017	923	699
December 2017	724	444

* The table shows how many FOIAs have been received each month, and how many of those FOIAs have been closed as of January 26, 2018.

23. Will you establish a policy of responding to new FOIA requests on an ongoing basis, rather than relegating them to the back of the line and without waiting to be sued on each request?

Response: EPA's FOIA Policy, described above, provides that EPA process FOIA requests "in accordance with the FOIA, applicable Presidential Orders and memoranda, EPA's FOIA

regulations, applicable guidance issued by the Department of Justice and the National Archives and Records Administration and applicable EPA FOIA guidance and procedures.” See EPA FOIA Policy at https://www.epa.gov/sites/production/files/2015-03/documents/cio_2157.1.pdf.

It has been reported that you and other political appointees have directed staff to avoid creating public records that could be subject to FOIA requests, such as directing staff to provide internal policy decisions orally instead of by electronic mail or directing staff not to take notes in meetings.

24. Do you agree that EPA is required to create and maintain records that document the formulation of the agency's decisions, and the people and matters dealt with by the agency, so that proper scrutiny by Congress and other agencies is possible?

Response: In accordance with NARA Regulations at 36 CFR Chapter 12, Subchapter B and the Federal Records Act at 44 U.S.C. Chapter 31, all EPA employees are responsible for creating records containing “adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency,” 44 U.S.C. 3101, and filing those records for safe storage and efficient retrieval. EPA employees are also responsible for disposing of records according to Agency Records Retention Schedules and safeguarding against the removal or loss of records.

25. Have you or other political employees provided any direction to staff that could discourage them from creating such records?

Response: All employees are instructed to follow EPA and NARA requirements for the creation, maintenance and disposition of federal records in required annual records management training. The training is updated annually with any new relevant guidance from the NARA. In addition, records management briefings are given to new Senior Officials and Political Appointees when they come onboard with the Agency.

Contract with Definers Public Affairs:

On the day you testified before Energy and Commerce, EPA entered into a no-bid contract with Definers Public Affairs to provide “news analysis and brief service focusing on EPA work and other topics of interest to EPA.”³ The awarding of this contract without full and open competition to a company with no apparent experience in providing these services to a Federal agency is concerning, as are the political lobbying activities of the firm. Though Definers recently terminated the contract with EPA, we have outstanding questions regarding EPA’s selection of Definers and whether the Contract was an appropriate use of taxpayer dollars.

26. What was your role in selecting Definers for this award? In addition to yourself, which EPA political appointees were involved in selecting Definers? Please provide all communications between yourself and all other EPA political appointees and any Definers representative between February 17, 2017 and December 7, 2017.

³ EPA Award Number EP18H000025 to Definers Corps. (Dec. 7, 2017)

Response: I had no role in selecting Definers for this award. No political appointees were involved, beyond indicating that they knew that Definers provided a specific media monitoring product.

27. Were you or other EPA political appointees aware of the FOIA requests filed by Definers employees against individual agency employees before the contract was awarded? Were those FOIA requests considered in the identification of Definers as a potential candidate for the Contract, or a factor in ultimately awarding the Contract?

Response: Per FOIAonline, we have had 10 requests from Definers, all submitted during the period from 5/8/2017 – 7/11/2017. Two of those requests were included in a summary of select incoming FOIA requests distributed weekly to senior Agency officials.

28. Was Definers, AmericaRising, or any of their agents involved in creating or funding the website ConfirmPruitt.com?

Response: See answer to Question 30.

29. Were you, any of your agents, or any current EPA employees involved in generating or reviewing the content of the website ConfirmPruitt.com, or providing or raising funds for the site? Did any representative of Definers, America Rising, or America Rising Squared generate or review content for the website?

Response: See Answer to Question 30.

30. What work did Definers perform for EPA pursuant to the contract? Please provide a list of all services performed by Definers for EPA during the duration of the contract, including the date, the service provided, time required, the itemized cost, and the name of the Definers employee who performed the work. What was the total amount of taxpayer funds EPA paid Definers during the duration of the contract? Please provide copies of all communications between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network during calendar year 2017.

Response: Definers did not provide any work pursuant to the contract as the contract was cancelled prior to any work beginning. No taxpayer funds were paid to Definers as the contract was cancelled.

31. On December 10, the New York Times published an article identifying an alarming decrease in enforcement actions brought by the EPA during your administration.⁴ EPA issued an unusual press release in response, which has since been removed from the agency website but continues to be cited by conservative media sources. What role did Definers play in the agency's response to the December 10th article? Provide any correspondence between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network regarding the December 10th article.

⁴ Eric Lipton and Danielle Ivory, *Under Trump, EPA has Slowed Actions Against Polluters, and Put Limits on Enforcement Officers*, New York Times, (Dec. 10, 2017), <https://www.nytimes.com/2017/12/10/us/politics/pollution-epa-regulations.html>

Response: To my knowledge, Definers did not play any role in the agency's response to the December 10th article.

32. What firewalls were in place in the contract with Definers Corp to ensure that Definers firewalled the media monitoring services provided under the Contract from its services that would violate the Publicity or Propaganda Prohibition and Anti-Lobbying provisions?

Response: As the Definers contract was cancelled prior to any work being performed, firewalls were not an issue.

33. Please provide a copy of the contract between EPA and Definers Corp. including any statement of work.

Response: See answer to question 30.

Enforcement:

As noted above, on December 10, the New York Times published an article identifying an alarming decrease in enforcement actions during your administration. Specifically, their analysis shows your EPA has brought one quarter fewer cases than President George W. Bush's EPA and one-third fewer cases than President Barack Obama's EPA over comparable periods. The analysis also shows that you have sought significantly smaller amounts in civil penalties.

34. Can you explain why EPA has pursued fewer enforcement cases under your leadership?

Response: There is no reduction in the agency's commitment or our efforts to ensure compliance with environmental laws. We are focusing more on maximizing compliance results, rather than the number of individual actions. In FY 2017, we saw a renewed focus on expediting site cleanup, deterring non-compliance, and returning facilities to compliance with the law, while respecting the cooperative federalism structure of our nation's environmental laws.

The results of our FY2017 enforcement data shows a decrease in the overall number of actions. But, there was an **increase** in the dollar value of cleanup commitments at Superfund sites and an **increase** in the volume of contaminated soil and contaminated water that will be cleaned up. We also are focusing on high impact criminal cases, so the years of incarceration as a result of those cases has also **increased**. Finally, civil and criminal penalties and the value of injunctive relief **all increased** in 2017, despite a decrease in the number of cases.

35. Please describe any complaints you have received from communities/others who have been seeking, but apparently failing to receive relief from EPA from polluters?

Response: EPA is focused on punishing bad actors. In FY 2018, the agency will focus its resources on our direct implementation responsibilities, emphasizing violations with the most significant public health and environmental impacts, while assisting states and tribes in addressing noncompliance when they lack the capability, resources, or the will to do so on their own.

To further address the needs of communities burdened by pollution, EPA is developing new measures to help focus the enforcement program on returning facilities to compliance by setting goals to reduce the time between the identification of an environmental law violation and its correction and to increase environmental law compliance rates. EPA also is developing measures to fully capture all the enforcement and compliance assistance work that the agency undertakes by tracking informal, as well as formal, enforcement and compliance actions and support to states.

36. Have you been asked by anyone in industry to change EPA's enforcement policies?

Response: See response to question 37.

37. If so, please describe those conversations.

Response: Members of the regulated community have shared their views with me on a number of policy subjects, including their thoughts on how EPA can appropriately perform its enforcement and compliance assurance functions. I welcome the opportunity to engage in thoughtful dialogue with all stakeholders about ensuring protection of public health and the environment.

38. Can you explain any changes you have made to testing procedures and policies (e.g. requests for information) permitted by your regional offices, enforcement officers or other EPA staff, why those changes were made and what effect they have had on enforcement?

Response: On May 31, 2017, EPA issued an internal memorandum establishing interim procedures for agency review of certain information requests before they are issued by enforcement staff, Interim Procedures for Issuing Information Requests Pursuant to the Clean Air Act §114, Clean Water Act §308, and RCRA §3007. Prior to May 2017, EPA did not collect data on a national basis regarding "Requests for Information" sent by the agency for enforcement purposes. Since the memorandum was issued, 36 information request letters have been sent to EPA headquarters for review as of January 18, 2018; none have been disapproved.

Co-Benefits of Air Rules:

You have questioned EPA's prior evaluations of public health protections that have included "co-benefits" of deadly particulate matter.

39. Do you agree there is judicial precedent upholding EPA's approach to consider co-benefit pollution reductions?

40. Why or why not?

41. Are you planning to seek legal review of this matter?

42. Are you planning to try to change the way co-benefits, like PM2.5, are counted or considered in EPA rulemakings?

43. If so, why and what evidence do you have to support such a change?

Response: The question of how EPA evaluates the public health protections of its rules is of great importance, and as you note, I take a keen interest in it. I want to ensure that the public can have full confidence that the methodologies and approaches the Agency uses in assessing the benefits of its rules. OMB guidance directs EPA and other federal agencies to quantify the benefits and costs of regulations to the extent feasible using the best available science and analytical techniques. The EPA is committed to continue its open and transparent process of evaluating both the benefits and the costs of regulatory actions.

Ozone:

For the 2015 Ozone rule, the Clean Air Act required all states and Tribes to submit attainment designation recommendations by October 1, 2016, and EPA was required to finalize area designations a year after. On November 6, the agency issued attainment designations for those areas that meet the 2015 standard, however EPA failed to release any nonattainment designations. In response to questions about EPA missing deadlines associated with the 2015 Ozone rule, you said the delay was due to “information that has not been provided by the states.”

44. Please provide a list of all states or Tribes who have not submitted designation recommendations to EPA for the 2015 Ozone standard. What information is still outstanding from these states or Tribes?

Response: In 2016 EPA received designation recommendations from all 50 states and 6 tribes. Tribes are not required to submit recommendations. In 2017, several states have provided additional information relevant to the EPA's analysis of designations, including substantive revisions to their initial recommendations. In addition, EPA is awaiting additional information from Texas regarding the designations recommendations for the 8 counties in the San Antonio area, which should be submitted to EPA by February 28, 2018.

45. To date, has EPA notified any states or Tribes that it intends to modify any of their recommended designations? Please provide the Committee with a list of these states or Tribes, and copies of the notice provided by EPA.

Response: On December 22, 2017, EPA responded to state and tribal recommendations by indicating the anticipated area designations for the portions of the country not already designated for the 2015 ozone standards. Below are the states and tribes EPA notified that we intend to modify (wholly or partially) their recommendations for one or more areas in their jurisdictions:

- Alaska (Anchorage)
- Delaware (Philadelphia)
- Florida (Jacksonville)
- Indiana (Chicago, Louisville, Cincinnati)
- Kentucky (Louisville)
- New Jersey (NYC, Philadelphia)
- Nevada (Las Vegas)
- Oregon (Salem)
- Pennsylvania (Harrisburg and Reading)

- Utah (Uintah Basin)
- Wisconsin (Door Co, Manitowoc Co, Sheboygan, Milwaukee, Chicago)
- Ute Tribe (Uintah Basin)
- Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation. (Los Angeles-South Coast)

All correspondence from EPA to states and tribes regarding designations for the 2015 ozone standards may be accessed on the EPA's website at <https://www.epa.gov/ozone-designations/epa-responds-recommendations-2015-ozone-standards> and in the public docket for this action at www.regulations.gov Docket ID No. EPA-HQ-OAR-2017-0548.

46. Have you been in contact with any industry representatives or states about delaying the implementation of the 2015 Ozone standard as it relates to finalizing the remaining designations? If so, please describe the nature of your meetings and communications.

Response: I regularly meet with stakeholders interested in the agency's regulatory decisions, including the regulated community such as manufacturers and our nation's power generators, as well as the states. Improvement of the review and implementation of the National Ambient Air Quality Standards (NAAQS) is a priority and States, as co-regulators responsible for development of State Implementation Plans to ensure compliance with the NAAQS, have an especially important role. As such, discussions surrounding the NAAQS program and the 2015 Ozone standard regularly come up primarily in the form of a state, a regulated entity or other interested stakeholder providing their perspective. As referenced above, the agency has also communicated through a host of federal register notices and letters, which can be found at on the EPA's website at <https://www.epa.gov/ozone-designations/epa-responds-recommendations-2015-ozone-standards> and in the public docket for this action at www.regulations.gov Docket ID No. EPA-HQ-OAR-2017-0548.

47. The Unified Regulatory Agenda included a reference to using "additional time afforded by the designations extension to finalize necessary guidance" related to the 2015 Ozone standards. However, after legal challenges from states and others, you walked back your effort to delay implementation of these standards.

- a. Can you clarify what "extension" this refers to in the Unified Agenda?

Response: This language in the Unified Regulatory Agenda is an error. The Agenda is prepared in advance and did not reflect EPA's decision to withdraw the designations extension and to proceed with finalizing designations. EPA has since corrected the Agenda to remove the inaccurate references to the withdrawn extension.

- b. Why would EPA need an extension to issue remaining designations?

Response: EPA withdrew its previously announced extension on August 2, 2017.

48. When can we expect EPA to issue the remaining designations?

Response: EPA intends to complete designations for the 2015 ozone NAAQS for most areas of the country by April 30, 2018. Additional time is needed to finalize designations for the eight counties

in the San Antonio area because the State has indicated it has additional information to submit, and EPA is waiting to take the next steps in the designation process for this area pending submission and analysis of that information. EPA will complete the designations for these eight counties no later than August 10, 2018.

49. Who is on the Ozone Compliance Task Force, and what is its roll in implementing the 2015 Ozone standard? Please provide the Committee with a list of participants, schedule, meetings, materials, and communications.

Response: The ozone compliance task force is composed of only internal EPA staff with specialized expertise in the NAAQS setting and implementation process. Involved offices primarily include the Office of Air and Radiation, including the Office of Air Quality Planning and Standards team, and the Office of General Counsel. The purpose of the task force is to ensure the agency is responsive to state and state agency implementation concerns by facilitating a productive dialogue to set states up for successful compliance outcomes.

Climate Change:

50. Federal courts have held that the quantity of emission reductions to be achieved is an important consideration in determining the “best system of emission reduction” for sources under section 111 of the Clean Air Act. What weight will you give to achieving significant emission reductions in considering a replacement for the Clean Power Plan?

Response: EPA issued an Advance Notice of Proposed Rulemaking (ANPRM) to solicit information from the public about a potential future rulemaking to limit greenhouse gas (GHG) emissions from existing electric utility generating units (EGUs), commonly called power plants. The agency is considering proposing under which states would submit plans to limit GHGs from existing power plants and is soliciting information on the proper respective roles of the state and federal governments in that process, as well as information on systems of emission reduction that are applicable at or to a power plant, information on compliance measures, and information on state planning requirements under the Clean Air Act. The agency has made no decisions in the context of this potential rulemaking about how to weigh various criteria to consider as part of Best System of Emission Reductions (BSER), including the quantity of emission reductions. In response to both the ANPRM and any eventual proposal, we anticipate receiving a range of comments on the issue of BSER. We intend to fully consider those comments when finalizing any rule.

At the hearing you questioned the integrity of the rulemaking that led up to EPA’s December 2009 science-based finding that greenhouse gas pollution endangers public health and welfare. As you know, EPA received over 380,000 comments on the Endangerment Finding, responded to 10 petitions for reconsideration, and explained its determination in almost one thousand pages of documentation in the Federal Register and supporting technical documents. A three-judge panel of the D.C. Circuit unanimously upheld that finding in 2012 against a barrage of legal challenges, finding that it was supported by ample evidence and that EPA had appropriately relied on authoritative analyses by the Intergovernmental Panel on Climate Change, the U.S. government and other sources.

51. Please explain why you continue to question the process that led to the Endangerment Finding in light of this history and the D.C. Circuit's decision?

Response: The agency has received reconsideration petitions from a range of interested stakeholders. Some of those petitions raise concerns regarding the over-reliance of scientific work done by United Nation's Intergovernmental Panel on Climate Change (IPCC), as well as concerns regarding EPA's decision to forego submitting the 2009 endangerment finding to peer review by EPA's Science Advisory Board (SAB). In general, other stakeholders have expressed concerns regarding a lack of opportunity to provide comment on the finding. For these reasons and others, the agency is assessing an appropriate process by which we can effectively respond.

You recently stated that you intend to move forward imminently with a so-called "red team" exercise in which you will convene rival panels of scientists to debate climate science, just weeks after the Administration's Global Change Research Program released a "Climate Science Special Report" confirming that human activities are "the dominant cause" of observed climate change, and that climate change is already having adverse impacts around the country. This report was authored by scientists from multiple Federal agencies, national laboratories, universities, and the private sector, and went through six stages of external review including review by the National Academies of Sciences, Engineering, and Medicine and an open public comment period.

52. Please explain why the "red team" exercise a good use of scarce Agency resources in light of the extraordinary research and review that the Administration invested in the CSSR?

Response: See response to question 51.

It was recently reported that officials at the Center for Disease Control and Prevention are being directed to not use seven words or phrases in official documents for the FY 2019 Budget. The forbidden words are "vulnerable," "entitlement," "diversity," "transgender," "fetus," "evidence-based" and "science-based."

53. Is EPA also barred from using "vulnerable," "entitlement," "diversity," "transgender," "fetus," "evidence-based" or "science-based," in official budget documents?

Response: EPA has no guidance or direction forbidding the use of any words in the FY 2019 budget. Specifically, EPA is not barred from using "vulnerable," "entitlement," "diversity," "transgender," "fetus," "evidence-based" or "science-based," in official budget documents.

54. Does EPA have a list of forbidden words or phrases for official budget documents? If so, please provide the Committee with such list.

Response: The EPA does not have a list of forbidden words or phrases for official budget documents.

55. EPA has been experiencing a workforce reduction, including through the use of buy-outs.

Please detail the status of workforce reductions conducted to-date, during this administration, including overall net personnel reductions?

Response: Please see details on the status of workforce reductions conducted to-date, during this administration, including net overall personnel reductions in the chart below. EPA did not conduct a reduction in force during the time period addressed in this request.

56. In what offices and programs have net reductions occurred?

Response: Please see details on net reductions in the chart below.

57. Please detail the categories in which workforce reductions have occurred in 2017, such as buy-outs, other voluntary separations, reductions-in-force, etc.

Response: Please see details on buy-outs and other voluntary separations in the chart below. EPA did not conduct a reduction in force during the time period addressed in this request.

Note: Experts and Consultants not included; data from 01/21/2017-01/26/2018

Office/ Region	VERA/VSIP 2017	Total Attrition	FTE Beginning FY17	FTE End FY17
OA	11	38	365	327
OAR	3	94	1120	1026
OARM	25	66	690	624
OCFO	15	25	302	277
OCSP	10	95	970	875
OECA	39	79	721	642
OEI	16	34	337	303
OGC	2	13	227	214
OIG	**	26	**	**
OITA	2	2	74	72
OLEM	15	29	491	462
ORD	29	125	1546	1421
OW	18	44	576	532
R01	20	51	547	496
R02	7	34	781	747
R03	41	61	808	747
R04	19	57	908	851
R05	28	70	1056	986
R06	29	54	733	679
R07	29	55	501	446
R08	2	29	513	484
R09	11	45	726	681
R10	5	43	542	499
Grand Total	376	1169	14534	13391

*Total Attrition includes Voluntary Early Retirement (VERA)/Voluntary Separation Incentive Payment (VSIP) numbers

**VERA/VSIP data from OIG not included

58. In 2018, what additional workforce reductions are planned, assuming funding is available to accomplish them?

Response: In conjunction with the actions identified in the agency Reform Plan which is included in the FY 2019 Congressional Justification, specifically the actions identified in the Near-Term Workforce Actions submission, the EPA will, if necessary, identify additional VERA/VSIP activities after FY2018 appropriations are finalized by Congress. This will allow the agency to focus on disinvestment areas and reshape the organization in line with the final FY 2018 appropriations and other Reform Plan activities.

59. In which programs and offices are reductions planned?

Response: As indicated in our response to question 58, decisions on workforce actions will be made based on the final FY2018 appropriations and Reform Plan actions.

60. What closures or other changes to the current EPA regional offices or labs are planned for 2018 or beyond?

Response: At this time the agency is not considering plans to close regional offices. Any future facilities changes will be evaluated based on the cost-effective use of agency space and how to best accomplish the agency mission.

The Honorable Paul Tonko

1. Travel to Morocco

On December 12, EPA issued a press release, "Administrator Pruitt Promotes Environmental Cooperation with U.S. Partners in Morocco." While no members of the press accompanied you on this trip, it was reported that the purpose of the trip was to promote U.S. natural gas exports.

- a. Please provide an itinerary of your trip along with total estimated costs to U.S. taxpayers for you and any accompanying staff, including security details.

Response: I met with Moroccan leaders to convey our priorities and best environmental practices, as well as identify opportunities for continued cooperation, as our two countries further talks around the Environmental Work Plan established under the US-Morocco Free Trade Agreement. A schedule of my trip can be found at <https://www.epa.gov/senior-leaders-calendars/calendar-scott-pruitt-administrator>. I traveled with EPA career and political staff.

- b. How does promoting U.S. LNG exports fit into your "Back to Basics" agenda?

Response: The purpose of the trip to Morocco was to further talks surrounding the renegotiation of the Environmental Work Plan under the U.S.-Morocco Free Trade Agreement. The fact that the topic of exportation of U.S. technology and innovation abroad—including but not limited to LNG –

was raised only serves to emphasize the importance this Administration has placed on promoting U.S. businesses.

- c. What authority does EPA have related to the exportation, sale, or promotion of U.S. LNG?

Response: As I stated, the purpose of the trip to Morocco was to further talks surrounding the renegotiation of the Environmental Work Plan under the U.S.-Morocco Free Trade Agreement. The fact that the topic of exportation of U.S. technology and innovation abroad—including but not limited to LNG – was raised only serves to emphasize the importance this Administration has placed on promoting U.S. businesses.

- d. Please provide a list of companies, trade associations, or natural gas industry representatives that you or your staff have been in contact with regarding U.S. LNG exports. Please provide all records, communications, emails, meeting attendance or materials for any of these interactions.

Response: My daily schedule is publically available at: <https://www.epa.gov/senior-leaders-calendars/calendar-scott-pruitt-administrator>

- e. This trip was not publicly announced until EPA issued a press release once you had already arrived in Morocco. Moving forward, will you commit to publicly announcing all foreign and domestic trips prior to traveling?

Response: Due to security concerns, EPA does not comment on the Administrator's upcoming schedule.

2. Science at EPA

In the draft FY 2018-2022 EPA Strategic Plan, you have promised to “prioritize robust science.” Under Objective 3.3 of the draft plan, you say that “EPA will identify, assess, conduct, and apply the best available science to address current and future environmental hazards, develop new approaches, and improve the scientific foundation for environmental protection decisions.”

- a. Do you commit to ensuring that the EPA's actions and policies are guided by the latest climate science, as reflected in Volume 1 of the Fourth National Climate Assessment (also known as the Climate Science Special Report or CSSR), and as described in statements and reports from the National Academy of Sciences?

Response: EPA will continue to conduct a range of economic, scientific, and technical analyses for Clean Air Act (CAA) regulatory actions, technical input, and policy support. Within the statutory boundaries, there are a number of factors to consider in federal actions, including costs, implementation issues, and the appropriate balance between state and federal authority.

- b. Do you agree with the CSSR's conclusion that “it is *extremely likely* that human influence has been the dominant cause of the observed warming since the mid-20th

century... For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence”?

Response: EPA recognizes the challenges that communities face in adapting to a changing climate. EPA works with state, local and tribal governments to improve infrastructure to protect against the consequences of climate change and natural disasters. EPA also promotes science that helps inform states, municipalities, and tribes on how to plan for and respond to extreme events and environmental emergencies. Moving forward, EPA will continue to advance its climate adaptation efforts, and have reconvened the cross-EPA Adaptation Working Group in support of those efforts. Human activity impacts our changing climate in some manner. The ability to measure with precision the degree and extent of that impact, and what to do about it, are subject to continuing debate and dialogue.

- c. Do you commit to making information about climate change prominently available on the EPA's website, alongside information about other critical issues related to human health and the environment?

Response: This information is publicly available on EPA's website. EPA will continue to provide information concerning issues related to human health and the environment on our website.

- d. Regarding the October 31 Science Advisory Board directive, can you please provide specific examples of when an EPA grant recipient on an advisory committee provided conflicted advice?

Response: The October 31 directive is not an ethics policy intended to address conflicts of but rather is an exercise of the Administrator's discretion, intended to ensure that the agency's advisory committees provide an appropriate range of independent and diverse perspectives. The Science Advisory Board Staff Office is not aware of any instances of when an EPA grant recipient on an advisory committee provided conflicted advice.

- e. On October 22, the New York Times reported, "E.P.A. Cancels Talk on Climate Change by Agency Scientists." Why were EPA scientists prohibited from speaking at a Rhode Island conference on climate change?

Response: Procedures have been put in place to prevent such an occurrence in the future. I have assured Office of Research and Development (ORD) political and career senior leadership that they have the authority to make decisions about event participation going forward. This has been communicated to all ORD staff throughout the country, and ORD will continue to conduct research outlined in our Strategic Research Action Plans reflecting Congressional appropriations. As always, ORD scientists are asked to speak directly to the science in their presentations, leaving policy statements to the relevant EPA programs. Additionally, I am committed to upholding EPA's Scientific Integrity Policy, which ensures that the Agency's scientific work is of the highest quality, is presented openly and with integrity, and is free from political interference.

- f. Moving forward, will EPA scientists have the opportunity to communicate publicly about their research.

Response: I have assured Office of Research and Development (ORD) political and career senior leadership that they have the authority to make decisions about event participation going forward. This has been communicated to all ORD staff throughout the country, and ORD will continue to conduct research outlined in our Strategic Research Action Plans reflecting Congressional appropriations. As always, ORD scientists are asked to speak directly to the science in their presentations, leaving policy statements to the relevant EPA programs. Additionally, I am committed to upholding EPA's Scientific Integrity Policy, which ensures that the Agency's scientific work is of the highest quality, is presented openly and with integrity, and is free from political interference.

3. Advisors to the Administrator

On December 13, it was reported that Dr. Michael Dourson withdrew his name to serve as Assistant Administrator for the Office of Chemical Safety and Pollution Prevention.

- a. In October, it was reported that Dr. Dourson was already working at the agency as an Adviser to the Administrator. Can you confirm whether Dr. Dourson has left the agency?

Response: Dr. Michael Dourson is no longer employed at EPA.

- b. If not, what are the roles and responsibilities of Dr. Dourson?

Response: See above. Dr. Dourson has no roles or responsibilities at EPA.

- c. What ethics or conflict of interest agreements apply or applied to Dr. Dourson in his role as Advisor to the Administrator?

Response: As a federal employee who was appointed to a non-career SES position, Dr. Dourson was subject to the federal conflict of interest statutes codified in Title 18 of the United States Code; the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635; the Hatch Act 5 U.S.C. §§ 7321-7326; and Executive Order 13770.

- d. You testified that the October 31 Science Advisory Board directive was driven by a concern that "a perception or an appearance of a lack of independence in advising the Agency." Did any EPA leadership have a conversation or express concerns about the perception of conflict of interest from Dr. Nancy Beck's involvement in revising the TSCA framework rules after leaving a position with the American Chemistry Council?

Response: No. Unlike Dr. Dourson, Dr. Beck is not a political appointee but rather an Administratively Determined appointee. She is therefore not required to abide by Executive Order 13770 nor required to sign the Trump Ethics Pledge. She is subject to the federal impartiality standards set forth at 5 C.F.R. Part 2635, Subpart E, but those rules do not generally preclude participation in particular matters of generally applicability. Dr. Beck has consistently sought advice from OGC/Ethics. See the attached impartiality determinations and signed recusal statement.

4. Enforcement Actions and Monitoring

On December 10, the New York Times reported that EPA regional staff must seek authorization from HQ before asking companies to track their emissions. Monitoring is critical to ensure that the environmental and health gains that have been made in recent decades are not undone. Power generating facilities in the Midwest emit sulfur dioxide and nitrogen oxides, which are the major precursors of acid rain which has caused the acidification of many Adirondack lakes and ponds.

- a. The Adirondack Lake Survey Corporation receives EPA funding for long-term monitoring of water quality recovery from acid rain. Do you support continuation of this long-term monitoring funding?

Response: We recognize that the Adirondack ecosystems are among the most sensitive areas to acidification in North America. Despite the impressive reductions in acid-causing emissions and deposition, our monitoring shows that some Adirondack lakes are slow to show recovery. Consequently, continued monitoring of water quality in Adirondack lakes is critical to our assessment of the effectiveness of emissions controls.

5. Hudson River Superfund Site

The State of New York has stated that the Hudson River PCB cleanup has not met the goals of the program, and that additional action is needed. Federal Natural Resource Trustees have also expressed concerns. The EPA Region II office does not appear to acknowledge the scientific basis of the state's and Trustee's analysis.

- a. Will EPA reconsider the recommendations of the Second Five-Year Review Report in light of the analysis done by the State and Trustee agencies?

Response: Yes, the EPA is continuing to review and consider the input that it received on the proposed Five-Year Review Report, including input from the Trustees.

6. OIG

The Office of Inspector General (OIG) Semiannual Report: April 1, 2017 - September 30, 2017 raised a number of issues about interference with the OIG's independence. From that report: "A second budget impediment occurred when the OIG submitted an FY 2019 request for \$62 million to the agency for inclusion in the President's budget. Without seeking input from the OIG, the agency provided us with a request of \$42 million. The agency informed the OIG that the Office of Management and Budget mandated budget requests Semiannual Report to Congress April 1, 2017—September 30, 2017 13 could not be more than a certain percentage above the President's FY 2018 budget. The EPA also informed the OIG that the \$42 million request would not change. The OIG submitted a memorandum to the Office of Management and Budget stating the OIG's original budget request, and explaining that the EPA's submitted budget did not reflect the OIG's desired funding levels and would have significant negative impacts on OIG operations."

- a. Do you believe a fully funded, independent Inspector General is necessary for EPA to run as an efficient and accountable agency?

Response: The Inspector General Act of 1978, as amended, 5 USC Appendix, established an Office of the Inspector General at EPA as an independent office that would, among other things, promote the economy, efficiency, and effectiveness of EPA programs and operations. EPA is committed to acting consistently with the Inspector General Act and ensuring that its purpose is upheld.

7. IRIS

- a. How do you view the role of IRIS relative to ensuring full implementation of the TSCA program?

Response: IRIS assessments are the top tier source of toxicity information used by EPA and other health agencies to inform national standards, clean-up levels at local sites, and set advisory levels. IRIS assessments inform decisions under the CAA, CWA, SDWA, CERCLA/Superfund, and TSCA.

In addition, IRIS is providing scientific products and support required for TSCA implementation to the Agency's Chemical Safety and Pollution Prevention program. This will include support for risk evaluations of the first 10 TSCA chemicals (Designation of Ten Chemical Substances for Initial Risk Evaluations Under the Toxic Substances Control Act, 81 FR 91927), through to completion in FY 2019, as well as any additional chemicals identified for the pipeline of TSCA risk evaluations [TSCA section 6(b)(2)]. IRIS will continue its efforts to maintain and improve support of TSCA implementation.

- b. Will you commit to fully supporting the IRIS program?

Response: We will continue supporting the IRIS program consistent with congressional appropriations.

The Honorable Diana DeGette

1. Methane is up to 34 times more potent a greenhouse gas than carbon dioxide and makes up approximately ten percent of annual greenhouse gas emissions in the United States. Despite the harm methane can cause, the EPA has proposed delaying rules that would have curbed methane emissions from oil and gas industry sources. The proposed delay of the 2016 methane rule published in the Federal Register on June 16, 2017, states "the EPA believes that the environmental health or safety risk addressed by this action may have a disproportionate effect on children."
 - a. Do you agree that children would be disproportionately affected by delaying methane emissions restrictions on the oil and gas industry?
 - b. What are the estimated costs of the health impact on children?

Response: EPA is assessing the environmental health and safety risks as part of its reconsideration process on the 2016 methane rule. The cost, benefits, and distributional impacts of regulations are one of the factors, along with others, that inform these proposed and final regulations.

2. During your testimony we discussed the decision on a final rule concerning methylene chloride use in paint stripper. You promised to review the status of the rule and provide an update soon after the hearing. Rules concerning N-methylpyrrolidone (NMP) and trichloroethylene (TCE) were proposed at the same time. Prohibitions against certain uses of NMP and methylene chloride were removed from the Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions.

- a. The Fall Unified Agenda was released on December 14, one week after your testimony before the committee. At what point was the decision made to remove the NMP and methylene chloride rules from the Unified Agenda?

Response: Due to the agency timeline for developing the Unified Agenda, a decision was made to move these items to the inactive portion of the Unified Agenda. Under TSCA Section 6(a), regulation of certain uses of these chemicals was proposed in 2016. The agency is continuing to consider the comments received, including comments suggesting that these actions be harmonized with the risk evaluations under Lautenberg Act amendments to TSCA. EPA intends to continue engaging stakeholders while undergoing the extensive rulemaking process. Due to the complexity of the rulemaking this process could easily take a year and the status change on the regulatory agenda reflects that EPA does not anticipate a final action in 2018. It does not preclude our ongoing work on these proposals, moving the rule from inactive to active status in the regulatory agenda, nor does it pause the risk evaluations that must be concluded by 2019 per the statute.

- b. When will EPA finalize the rules for TCE, NMP, and methylene chloride under TSCA?

Response: Under TSCA Section 6(a), regulation of certain uses of these chemicals was proposed in 2016. The agency is currently considering the comments received, including comments suggesting that these actions be harmonized with the risk evaluations mentioned above. In 2018, EPA intends to work on these rulemakings. Due to the complexity of the rulemaking this analysis could easily take a year and EPA does not anticipate a final action in 2018. It does not preclude our ongoing work on these proposals, nor does it pause the risk evaluations that must be concluded by 2019 per the statute.

- c. What role did Michael Dourson have as an EPA adviser in determining the timeline for these rules?

Response: Michael Dourson, while serving as an advisor to the Administrator did not participate in determining timelines for these rules.

3. In response to the explosion at the West Fertilizer Plant in Texas in 2013, EPA developed updates (the "Chemical Disaster Rule") to Risk Management Plans (RMP) requirements. This update would have included common sense reforms, including improved accident prevention provisions and enhancements to emergency response preparation. In June 2017,

the implementation of this rule was delayed. The rule had been in development for three years and was subject to more than 40,000 public comments.

- a. During Hurricane Harvey, the Arkema Chemical plant in Crosby, Texas, experienced fires due to a failure of emergency generators and backup cooling systems. First responders have filed suit against Arkema alleging that Arkema misrepresented the threat posed by chemicals at the site. A situation like this, where first responders cannot adequately prepare to respond to emergencies at chemical production facilities, is the sort of circumstances that the Chemical Disaster Rule was designed to avoid. Have the events at the Arkema plant, where first responders were put at risk, caused you to reconsider the delay of the Chemical Disaster Rule?

Response: While EPA shares your concerns about potential harm to first responders due to hazardous chemical exposures, it is important to note that the extension of the effective date for the Risk Management Program Amendments from January 2017 to February 2019 had no effect on the major safety or emergency preparedness requirements that applied to the Arkema Crosby facility, and initial assessments conducted at the facility did not identify any catastrophic releases of RMP-regulated substances. EPA is currently reconsidering the RMP Amendments, and plans on issuing a proposed rule to address certain issues with the Amendments in 2018.

- b. The proposed EPA budget for fiscal year 2018 reduced funding for inspection of sites under the RMP by 35 percent, straining a program that only has 30 inspectors for 12,500 sites. In light of the number of facilities that need to be inspected, the low frequency of inspection, and the specter of climate change related extreme weather events like Hurricane Harvey, do you still feel the cuts to the inspection program are prudent?

Response: The Risk Management Program remains in effect and includes both federal and some state level delegated implementation. EPA will continue to implement this program and focus on improvements in efficiency and effectiveness. The agency prioritizes the highest risk facilities based upon their accident history, quantity of on-site dangerous chemicals stored, and proximity to large residential populations. EPA expects to conduct at least 175 inspections nationwide in fiscal year 2018. Also, 40 CFR Part 68 requires covered facilities to update and revalidate their process hazard analyses (PHA) at least once every five years to ensure the PHA addresses all relevant hazards (including extreme weather events).

4. The Climax Molybdenum Mining company in Colorado has asked the state of Colorado to relax limits on molybdenum allowed in runoff from the Climax mine in Summit County Colorado. Molybdenum is on the Contaminant Candidate List 4 (CCL-4). It was also on the CCL-3. Currently, states have minimal guidance from the EPA on the potential hazards of molybdenum in drinking water.
 - a. Is EPA currently collecting data on the health or environmental impacts of molybdenum in drinking water?
 - b. Will molybdenum be part of the Regulatory Determination 4 process going forward?

Response: EPA included molybdenum on the fourth Contaminant Candidate List, which is a list of contaminants which may require regulation. EPA collected data on the occurrence of molybdenum in drinking water as part of the third cycle of the Unregulated Contaminant Monitoring Rule (UCMR3) (submitted to EPA by July 2016). Data from UCMR 3 are available at <https://www.epa.gov/dwucmr/third-unregulated-contaminant-monitoring-rule>. EPA will consider occurrence data along with health effects information as part of the agency's regulatory determinations process to further evaluate the need for a National Primary Drinking Water Regulation (NPDWR). EPA anticipates completing the next Regulatory Determinations in 2021.

5. For more than two years, I have been focused on addressing the environmental damage caused by the August 2015 release of toxic mine water from Gold King mine in San Juan County, Colorado.
 - a. I was glad to see the Bonita Peak Mining District (which includes Gold King mine) was included on the list EPA released on December 8, 2017, of sites targeted for "immediate, intense action." Can you elaborate on the action EPA plans to take in the Bonita Peak Mining District and the expected timeline?

Response: The investigation and remediation of abandoned mine lands is important to this Administration. The Bonita Peak Mining District is large and complex, and it will take many years to investigate and remediate decades of the mining industry's impact to the environment. With immediate and intense action required for this project, the team has implemented several of Administrator Pruitt's Superfund Task Force recommendations. Highlights include:

- An adaptive management approach will be taken to accelerate our ability to take response actions to protect human health, stabilize mine features, and improve water quality as we continue a comprehensive investigation of the source areas identified when the site was added to the National Priorities List.
 - We have identified a number of early response actions to reduce the impact of mine waste on the environment. Following public comment this spring, we will initiate those response actions during the upcoming construction season.
 - EPA entered into an Administrative Order on Consent with a potentially responsible party to complete the investigation of four large tailing impoundments.
 - We continue to work collaboratively with our state and federal partners to make the most efficient use of our collective resources to investigate and cleanup the mining district. We also engage with a wide variety of stakeholders who rely on the Animas River and its headwaters.
 - Data has been collected to support human health and aquatic risk assessments which are scheduled for publication later this year.
 - Data gaps to develop an investigation of the Bonita Peak Groundwater System have been identified.
 - The Interim Water Treatment Plant continues to treat all mine-impacted water, about 600 gallons per minute, being discharged from the Gold King Mine.
- b. On December 17, 2017, the *Denver Post* reported on the success of cleanup efforts related to toxic Argentine Mine complex near Rico, Colorado. The article noted that the part of the success is that the private company legally responsible for cleaning up

the site has invested “tens of millions of dollars” in the cleanup compared to less than \$5 million the EPA has invested in the cleanup of Gold King. What additional funding will EPA invest in the Gold King cleanup?

Response: In an August 2017, press release, EPA estimated that the agency has spent more than \$29 million in responding to the Gold King Mine release:

<https://www.epa.gov/newsreleases/administrator-pruitt-visits-gold-king-mine-anniversary-spill>.

Since the Bonita Peak Mining District was added to the National Priorities List in September 2016, we estimate that the EPA has spent between \$9 million and \$10 million on response activities at the site (not including the Gold King Mine emergency response). This estimate covers the time period of Sept. 16, 2016, through December 18, 2017, and includes data collection and analysis, preparation of human health and ecological risk assessments, detailed reconnaissance of the 48 source areas, and operation of the interim water treatment plant at Gladstone. Some of this funding has also supported the State of Colorado as EPA’s partner in the investigation and cleanup of the mining district. In addition, EPA entered into a Cooperative Agreement to allow San Juan County to provide technical assistance to EPA. EPA is overseeing the investigation of the Mayflower Mill tailing impoundments pursuant to an Administrative Order on Consent with Sunnyside Gold Corporation. Please note these are estimated figures and include both direct and indirect costs.

- c. On October 19, 2017, the *Denver Post* reported that there is uncertainty regarding the ongoing costs associated with the water treatment plant EPA is operating to clean up water from Gold King Mine. The annual cost of operating the plant is \$1.2 million and it produces toxic sludge while purifying the runoff. What is the EPA’s long-term plan for the plant costs?

Response: EPA’s long range plans include evaluating alternatives to active water treatment and managing the large volume of sludge generated by such treatment. To evaluate alternatives, we must first have a good understanding of the Bonita Peak Groundwater System. We plan to begin that investigation this year. As we learn more about how water and contaminants move through the mining district, we can evaluate alternatives to manage and/or treat mine- impacted water. In the long term, a water treatment plant may or may not be included in a final remediation plan.

- d. What is the status of finding a permanent solution for the waste sludge from the plant?

Response: EPA continues to evaluate a number of potential sludge repository locations within the mining district. We will seek acceptance for the location of a repository from any property owners that may be impacted as well as San Juan County and the community of Silverton.

The Honorable Jerry McNerney

1. At the December 7th hearing, I stated that less than half of the U.S. population was included in the ozone designations laid out by the EPA. Though this statement was not made in the form of a question, Administrator Pruitt interjected, proclaiming that the lack of inclusion was due to missing information that needs to be submitted by states. However, on the EPA’s

website, there is a full list of state recommendations from 2015. Will the Administrator please explain his statement and what information is missing from which states?

Response: On December 22, 2017, EPA sent letters to state governors explaining EPA's intended decisions on designating the remaining areas of the U.S. for the 2015 ozone NAAQS. These letters are posted on EPA's website. We also initiated a 30-day public comment period on the intended designations. We have asked that if states have any additional information they would like EPA to consider, they provide that information to EPA by February 28, 2018. We will review the public comments and any additional information provided by states. EPA intends to complete designations for the 2015 ozone NAAQS for most areas of the country by April 30, 2018. Additional time is needed to finalize designations for the eight counties in the San Antonio area because the State has indicated it has additional information to submit, and EPA is waiting to take the next steps in the designation process for this area pending submission and analysis of that information. EPA will complete the designations for these eight counties no later than August 10, 2018.

GREG WALDEN, OREGON
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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January 19, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Pruitt:

Thank you for appearing before the Subcommittee on Environment on December 7, 2017, to testify at the hearing entitled "The Mission of the U.S. Environmental Protection Agency."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Friday, February 2, 2018. Your responses should be mailed to Allie Bury, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to Allie.Bury@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



John Shimkus
Chairman
Subcommittee on Environment

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment

Attachment

Attachment—Additional Questions for the Record

The Honorable John Shimkus

1. This committee was instrumental in developing the Electronic Hazardous Waste Manifest Act of 2012, which requires EPA to replace the outdated paper documents with a new electronic system for tracking all hazardous waste shipments.
 - a. What are some of the other ways the hazardous waste program could be improved, particularly in terms of the elimination of duplicative and unnecessary regulations?
 - b. Is EPA pursuing any of these efforts?
2. The previous Administration attempted to regulate farms and agricultural processors by saying that its 2009 Endangerment Finding regulated “biogenic” CO₂ from agricultural crops. I understand The Endangerment Finding, however, never mentions the word “biogenic.”
 - a. Do you intend to look at this interpretation of the Endangerment Finding?
 - b. If so, would you view it in terms of whether EPA overreached to regulate natural CO₂ from U.S. farms?
3. On October 17, 2017, EPA's Air Enforcement Division sent a letter to the Ozone Transport Commission stating that the agency "agrees that the 1986 policy on aftermarket catalytic converter emissions is outdated."
 - a. What steps are being taken to update this policy?
 - b. Does the Agency have a timeline for this process?
4. There has been concern that EPA's regional offices enforce their authority differently from each other and Headquarters guidance. Do you intend to bring alignment among EPA Headquarters and the Regions?
5. The Administration's budget request zeroed out the funding to the Department of Justice for superfund-related enforcement activities and for cost recovery efforts for the superfund program. If the goal is to get more sites cleaned up and to speed up cleanups, that seems like an odd budget request since DOJ brings money back into the federal coffers from superfund polluters – can you explain to us why the president's budget request would zero out those funds?

6. On December 1, 2017 EPA issued a decision not to do a final rule regarding financial assurance requirements for the hard rock mining sector. Can you tell us what the status is of the 108(b) rule making for the other industry sectors that are next in line [chemical manufacturing, petroleum and coal products manufacturing, and the electric power generation, transmission, and distribution]?
7. EPA announced that it could be a year before it can start cleanup of the San Jacinto River Waste Pits, which sprung a leak during Hurricane Harvey flooding. Is that because EPA officials are in the process of negotiating with responsible parties to pay for the \$115 million project?
 - a. Does EPA have a plan to address the leaking cap in the meantime?
 - b. It was also announced that once the cleanup process starts, it is expected to take about 27 months. What safeguards will EPA put in place to ensure that more damage to the cap does not occur before the removal can be completed?
8. Administrator Pruitt, in October you announced a new policy of the Agency regarding the use of settlements to circumvent the regulatory process and indicated that EPA "will no longer go behind closed doors and use consent decrees and settlement agreements to resolve lawsuits filed against the Agency." The issue of "sue and settle" and the ability of special interest groups to use deadline lawsuits to force EPA to issue regulations that advance their priorities on a specified timeframe has long been a concern of this Subcommittee.
 - a. As you noted in your statement about the new policy, "'sue and settle' cases establish Agency obligations without participation by states and/or the regulated community; foreclose meaningful public participation in rulemaking; effectively force the Agency to reach certain regulatory outcomes; and, cost the American taxpayer millions of dollars." Has the Agency started implementing the changes?
 - b. There has been some pushback on your sue and settle proposal. How do you respond to the people, many of whom are former EPA attorneys, who say that the policy "discourages settlements when they would have been appropriate and increases agency costs?"
 - c. How do you differentiate between the negative aspects of sue and settle [lack of transparency etc...] and the positive? For example, regulated entities and EPA often reach agreement on a cleanup or enforcement issue, enter a settlement, and then file a lawsuit seeking court approval and enforcement of the settlement. Is your new "sue and settle" policy agency-wide? And is it a mandate to not use sue and settle in ways that shorten the administrative time it takes to get a cleanup or resolution of an enforcement action?
9. When was the last time EPA listed a Federal facility on the National Priorities List (NPL)?

- a. If a site scores high enough to rank on the Hazard Ranking System (HRS), will EPA list the Federal facility on the NPL?
 - b. How does OMB factor into the decision about whether to list a Federal facility on the NPL?
 - c. What if a Federal facility ranks on the HRS and the State in which it is located requests that the Federal facility be added to the NPL, will EPA list the Federal facility?
10. How do you reconcile Executive Order 12580 when it gives the polluter who is also the person paying for the cleanup, the right to make all of the decisions with respect to the remedy with no oversight from EPA?
11. How will EPA build consistency into how the Regions manage CERCLA cleanups?
12. What is the timing for the issuance of the Record of Decision for the Westlake Landfill in Bridgeton, Missouri?
13. The Superfund Task Force conducted a 30-day review of the program and released 42 recommendations in July. The Task Force reemphasized long accepted concepts that are necessary to ensure remedies are consistent nationwide, data-driven, and efficient – such as adaptive management, early actions, technical oversight, and strengthening partnerships with stakeholders. You also revised the delegation of authority procedures to require that remedies potentially totaling more than \$50 million must receive approval from the Administrator, which will help promote regional accountability.
- a. How have you been implementing the recommendations of the Task Force at sites with existing Records of Decision and how will you implement the recommendations with new cleanups?
 - b. How will EPA ensure that Regional offices closely follow the principles set forth by the Agency's 2005 Sediment Guidance and the National Contingency Plan?
 - b. Since many of the Task Force's recommendations require further action, what is your timeline and plan for next steps?

The Honorable David McKinley

- 1. Mr. Administrator - when EPA finalized the "coal ash" regulations, they adopted in the self-implementing rule a "one-size-fits-all" approach that does not allow for the consideration of site specific, risk-based factors.

I appreciate that EPA has committed to reconsider elements of the rule.

The timing of these revisions is critical to ensure that the power sector has regulatory certainty.

- a. Can you provide an update on how this process is going?
2. As you know, a federal district court ordered EPA in January this year to begin to implement section 321 of the clean air act. This provision from the late 1970s provides that the administrator "shall conduct continuing evaluation of potential loss or shifts in employment..."
 - a. What are your plans for implementing this provision? What can you tell us about your timeline?
 - b. Will you work with me to identify whether statutory changes will help make for a more useful and transparent section 321 program?
3. Small refineries have an inherent hardship in complying with the renewable fuel standards. These refineries do not have the ability to pass the rin cost on to their customers. It would put them at a competitive disadvantage to do so.

Congress has clearly stated its intent regarding this.

- a. What is the agency doing to address streamlining and improving the hardship petition process?
4. Mr. Administrator – we understand that one of your objectives at EPA is a revised federalism, including providing the states with a greater partnership role with EPA in administering and implementing environmental laws in the respective states. Congress' recent enactment of the wiin act – which allows the states to implement the federal coal combustion residual – or "coal ash" – rules in lieu of the federal rule – is a perfect example of this philosophy and provides your administration with the opportunity to put this goal into action.

Unfortunately, however, we have heard from some of the states that EPA has been slow in reviewing and approving state program applications to operate the ccr rule in lieu of EPA. Indeed, we understand that not a *single* state application has been deemed complete by EPA, which is necessary to allow for the formal review process to begin.

- a. Can we get some assurances from you that the agency will accelerate this process?
5. The EPA's Air Enforcement Division sent an October 17 letter to the Ozone Transport Commission stating it "agrees that the 1986 [aftermarket catalytic converter emissions] policy is outdated." We encourage you to look into this issue. U.S. manufacturing jobs are threatened and U.S. consumers are already being harmed by this outdated policy.

Are you aware of how U.S. manufacturers of aftermarket catalytic converters are being severely impacted by an outdated EPA policy guidance that guides the industry?"

The Honorable Marsha Blackburn

1. An Obama-EPA rule from 2016 would have required glider kit vehicles – which are made with *old* engines, and are not new vehicles – to comply with Phase 2 EPA greenhouse gas emission standards that were targeted solely for *new* vehicles and engines. This rule would have had a devastating impact on the state of Tennessee, resulting in a loss of \$512 million-dollars in economic output and a loss of 947 jobs. The rule would have been particularly harmful for small businesses that create and sell refurbished trucks using glider kits, providing an alternative in the medium and heavy-duty truck market that is 25% less expensive than buying a new truck. Mr. Pruitt, I want to thank you on behalf of the hundreds of Tennesseans who still have their jobs because of your common-sense action to reverse the previous administration's meritless and radical position.
 - a. Following up on that, do you agree that the needs of small business job creators should be taken into account when setting regulations that impact industries dominated by small businesses?
 - b. What can we do as a legislative body to ensure future abuses such as these do not take place again?
 - c. Can you discuss some of your efforts to reconsider regulations that pose an undue burden on small businesses?
2. In accordance with the President's Executive Order 13777, your Agency began a process of reviewing EPA regulations in need of reform because they eliminate or inhibit job creation, are outdated, ineffective, or unnecessary, impose costs that exceed benefits, or create legal inconsistencies.
 - a. What is the status of this review?
 - b. What are your planned next steps?
 - c. What timeline do you envision for implementing the recommendations?
3. On November 30, 2017, EPA finalized volume requirements under the Renewable Fuel Standard (RFS) program for 2018 for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel, and biomass-based diesel for 2019. The 2007 law shaping the RFS required EPA to study and report to Congress on whether the RFS will adversely impact air quality. To date, EPA has never completed that study. EPA was also required to report to Congress on the RFS' impacts to the environment and resource conservation every three years. To date, EPA has issued only one report – in December 2011. Administrator Pruitt, when can Congress expect the EPA to comply with the law and provide the necessary studies?

The Honorable Gregg Harper

1. Mississippi is home to a significant forest products industry. The EPA, under the Obama Administration, drafted and imposed a wood products procurement regulation that allows only for Forest Stewardship Council – or FSC – certified products to be purchased by the government, which bars the purchase of products certified by other credible forest certification standards, such as the American Tree Farm System (ATFS) or Sustainable Forestry Initiative. This regulation, which is now under review, excludes a significant number of family forest owners in the United States with homegrown products certified by other reputable standards. 1) Could you please provide a status update on the current review process? 2) What potential changes can be made to improve this policy that currently puts American forest owners at a disadvantage?
2. In the 113th Congress, EPA was provided discretion over the allocation of approximately \$12.7 million in annually appropriated EPA technical assistance funding. The EPA used the discretion to eliminate the two full-time circuit rider technical assistance positions in Mississippi and other states. In response to concern raised by my rural and small community water constituents, I introduced legislation to reauthorize and direct the technical assistance funding to where it is most helpful. Senator Wicker's companion bill was signed into law in 2015. I appreciate EPA's July 25, 2017, response to a June 9, 2017, Senate letter in which EPA committed to following the intent of the Grassroots Rural and Small Community Water Systems Assistance Act (PL 114-98). 1) Could you please provide an update on implementation of the law and the possibility of the two-full time circuit rider technical assistance positions being re-established in Mississippi?

The Honorable Bill Johnson

1. As is true in a lot of areas around the country, job creators in my district are having a difficult time obtaining New Source Review air permits in order to build or upgrade manufacturing facilities or power plants, which is hurting our local economy and employment opportunities. And, as the recent DOE report on electricity markets and grid reliability further emphasizes, "NSR creates an unnecessary burden that discourages... investments in efficiency because of the additional expenditures and delays associated with the permitting process".
 - a. Do you agree that issuing New Source Review permits takes too long and is unnecessarily complex?
 - b. What is EPA doing to assess the impact of current NSR review requirements on decisions to modernize facilities and power plants?

- c. What reforms may EPA make administratively to improve the New Source Review permitting program so that we can continue to improve air quality and achieve economic growth?

The Honorable Kevin Cramer

1. After 2022, EPA is required to set volumes for total renewable fuel, advanced biofuel, cellulosic biofuel, and biomass based diesel. The assumption is the total renewable fuel volume would contain some amount of conventional biofuel. The statute, however, does not set a minimum amount for conventional biofuel because it does not specify a minimum volume for the total renewable fuel. Thus, EPA could set the total renewable fuel volume as the same as the advanced biofuel volume.
 - a. Does the current statute have a specific requirements for corn-based ethanol until 2022?
 - b. Does the statute require a minimum volume of total renewable fuel for each year following 2022?
 - c. Is it your belief that after 2022, the RFS gives significant preference to advanced biofuels over conventional corn-based ethanol?
2. The implied mandate for corn-based ethanol is set at 15 billion gallons until 2022. As the statute is written today, do you view this 15 billion gallons as a ceiling or a floor?
 - a. If floor: What in the statute leads you to believe the RFS will require more than 15 billion gallons of corn-based ethanol?
3. The prior Administration proposed the Renewable Enhancement and Growth Support (REGS) Rule in 2016 and took comment on the potential for capturing RINS from renewable electricity used to charge electric vehicles.
 - a. Where does this proposal currently stand?
 - b. Is the EPA planning to continue to finalize the REGS Rule?
4. A number of ethanol producers in my state have talked to me at length about the benefits of high-octane fuels which are said to provide substantial engine efficiency benefits. They indicated a wealth of information has been provided to the EPA in support of such a fuel with 30 percent ethanol.
 - a. Can automakers now certify their engines on these fuels?
 - b. If not, why not? If so, what is the process?

The Honorable Tim Walberg

1. Administrator Pruitt, one of the priorities of this Subcommittee has long been to, where appropriate, give more authority to the states and it has been suggested that there are aspects of the Superfund program that would be better handled by the states.
 - a. What are your thoughts on delegating portions of the CERCLA cleanup authority to states that can demonstrate the ability to conduct certain superfund cleanups?
2. At present, there are no standard EPA methods for analyzing PFAS in environmental media, but EPA officials have stated the agency will have draft methods for water and solids by fall 2017. For the purpose of Michigan's continued engagement on this critical issue, as well as the betterment of EPA's developing approach to addressing PFAS nationwide, when do you expect these methodologies will be complete?
3. The EPA issued a drinking water health advisory for PFAS in May 2016, however, the advisory is non-enforceable and non-regulatory. Do you foresee changes to EPA's role in regulating PFAS contamination at the national level?
4. In the Motor Fuels Act of 1988 Congress established a variety of alternate fuel incentives to be used by NHTSA in the administration of the CAFE fuel economy regulations. EPA originally used the same statutory incentives as NHTSA therefore vehicle emissions and fuel economy incentives were harmonized. But in 2012, under the previous administration, EPA diverged from this harmonization by favoring electric vehicles over other alternative fuel vehicles thereby nullifying Congressional intent. Do you think it would be good policy for EPA to return to its previous approach and harmonizing its emissions incentives with NHTSA's fuel economy incentives?

The Honorable Buddy Carter

1. The EPA issued a review of the Phase 2 Greenhouse Gas Rule for Medium and Heavy-Duty Trucks and in November the EPA issued a statement on the review of glider kits. However, we haven't seen any announcements about progress with truck trailers. Are you currently reviewing trailers as part of the rule and if so, what is the status? Please provide an update on the rulemaking process and any progress that has been made.
2. Which recommendations from the Super Fund Task Force have been implemented?
3. The EPA recently announced the full or partial removal of Superfund sites from the National Priorities List. How many cleanups will the EPA pursue in 2018 and what will those be?
4. In June, the EPA announced an interim remedy for the Superfund site located at Terry Creek in my district. What is the status of that effort?
5. This committee has been looking to make sensible reforms to the program. Are there any legislative actions that this committee would need to take to aid in reforming the program?

The Honorable Michael Burgess

1. In my State of Texas, we have become too familiar with the EPA making examples of a few people to scare everyone else into compliance. Could you explain why you are intentionally moving away from heavy handed regulatory treatment and moving more toward building partnerships with States and industry to improve the environment?
2. Some of your critics view the EPA as if it's a factory; where success is measured by the quantity of rules issued, grants passed out, or enforcement cases brought. Rarely do people size up EPA by compliance achieved or improvements in the environment. What goals, budgetary or otherwise, are you setting for individual programs and what metrics are being used to measure progress or success of an office or program?
3. I'd also like to touch on the spill at the Gold King Mine. Shortly after the spill occurred there, I visited the mine to observe the impact myself and was shocked by the severe the damage was at that time. Could you please provide me an update on the situation there and the status of the claims brought by the victims?
4. EPA's authority to use the Title 42 hiring authority derives from an appropriations rider and not legislation originating from either the House Energy & Commerce or Senate Environment & Public Works Committees. Does the EPA intend to continue to use Title 42 to hire and pay new and existing employees under this authority?
 - a. Does EPA intend to formally ask the authorizing committees for special hiring authority or will it continue to base its authority on the appropriations rider?
 - b. Has EPA ever formally or informally requested such authority from the authorizing committees? If so, when?
 - c. Has the EPA ever proposed language similar to the Title 42 hiring authority be included in any of its authorizing legislation?
 - d. Does EPA intend to continue to request that the Appropriations Committee include this rider in future appropriations legislation?
 - e. Does EPA intend to ask the Appropriations Committee for any increase to the currently allowed number of employees it may pay under Title 42?

The Honorable Frank Pallone

Superfund:

During the hearing, you suggested that you proposed cutting the budget for Superfund cleanups because more money is not needed. You also said that there are very few orphan sites, meaning sites that will require public cleanup funds. However, in 2015, the Government Accountability Office found that as federal funding for cleanups has declined, the number of construction

completions and remedial action completion declined while the number of National Priority List sites remained constant. In other words, less money buys fewer needed cleanups.

1. How many sites, exactly, on the National Priority List require public cleanup funds?

Environmental Justice:

Since the issuance of Executive Order 12898 in 1994, EPA has been required to incorporate the goal of environmental justice into its mission. As part of that executive order, and in keeping with Title VI of the Civil Rights Act of 1964, EPA is required to ensure all of its activities that affect human health and the environment do not directly or indirectly discriminate on the basis of race, color, or national origin.

2. What are you doing to ensure that EPA's response and recovery efforts in Puerto Rico and the U.S. Virgin Islands comply with the Executive Order on environmental justice and the Civil Rights Act?

Environmental justice is also a serious concern in the Agency's response to Hurricane Harvey because of disparities between communities affected by that storm.

3. What have you been doing to ensure that EPA's response and recovery efforts in Texas comply with the Executive Order on environmental justice and the Civil Rights Act?
4. What direction, if any, have you given to your Regional Administrators and other regional staff with regard to ensuring environmental justice in EPA's hurricane response? Please provide any memoranda or email correspondence you or your staff have sent to regional staff on the subject of environmental justice and hurricane response.
5. Who on your staff is tasked with coordinating response efforts across the regions to ensure equal treatment for the people of Puerto Rico and the U.S. Virgin Islands?

Since assuming your position as Administrator, you have delayed or abandoned numerous rules and regulations that would have protected vulnerable communities.

6. Do you believe that your decision to abandon EPA's proposed ban of the dangerous pesticide chlorpyrifos complies with the Executive Order on environmental justice and the Civil Rights Act?
7. Do you believe that your decision to delay the important amendments to the Risk Management Planning program complies with the Executive Order on environmental justice and the Civil Rights Act?
8. Do you believe that your actions delaying notifying communities that are out of attainment with the 2015 ozone National Ambient Air Quality Standard complies with the Executive Order on environmental justice and the Civil Rights Act?

9. Do you believe that your decision to repeal the Clean Power Plan complies with the Executive Order on environmental justice and the Civil Rights Act?
10. Do you believe that your decision to delay revisions to the Lead and Copper Rule complies with the Executive Order on environmental justice and the Civil Rights Act?

Management of Toxic Pesticides:

11. Documents reveal that Monsanto employees may have ghostwritten scientific papers on glyphosate, including papers published in the journal *Regulatory Toxicology and Pharmacology*, which has an editorial board populated by industry scientists, lawyers and consultants with clear financial ties to the chemical industry. Has EPA relied on those studies in its evaluation of glyphosate?
12. Did EPA rely on studies from that journal in its decision to deny the petition to ban chlorpyrifos?
13. In 2015, the Food and Drug Administration (FDA) agreed with recommendations from GAO¹ that glyphosate monitoring should be done, but subsequently suspended its efforts to conduct that monitoring.² Documents suggest that this decision may have been made under pressure from an EPA employee working with Monsanto. Please provide any email or other correspondence between EPA employees and FDA employees regarding glyphosate monitoring.
14. EPA's March 30 decision on chlorpyrifos will allow continued use of this dangerous pesticide on golf courses. Did trade associations representing the Trump Organization golf courses, or lobbyists who represent the Trump Organization, communicate with EPA, the White House, or the Trump transition team regarding the March 30 decision or chlorpyrifos in general?

Transparency:

Nearly thirty-five years ago, in his landmark "Fishbowl Memo," Administrator Ruckelshaus announced that he would release his appointment calendar on a weekly basis, and he directed the Deputy Administrator and all Assistant Administrators, Associate Administrators, Regional Administrators, and Staff Office Directors to do the same. Administrator Ruckelshaus emphasized that "EPA will not accord privileged status to any special interest group" and that the public should be "fully aware of [top officials'] contacts with interested persons." In the intervening decades, Administrators serving under both Democratic and Republican Administrations have upheld this

¹ U.S. Government Accountability Office, "Food Safety: FDA and USDA Should Strengthen Pesticide Residue Monitoring Programs and Further Disclose Monitoring Limitations" (Nov. 6, 2014).

² Gillam, C. *FDA Suspends Testing for Glyphosate Residues in Food* (Nov. 11, 2016) (http://www.huffingtonpost.com/carey-gillam/fda-suspends-glyphosate-r_b_12913458.html)

practice. But your senior management team has yet to release its calendars, undermining agency transparency and raising questions about who may be accessing and influencing top EPA officials. EPA has recently provided the public with a "summary" of your calendar, and provided some heavily redacted records of your calendar through March 31. But the agency still has not released the actual records of your daily calendars since March, despite numerous FOIA requests for them.

15. Will you commit to making your schedule public on a regular basis, so that Congress, the press, and ordinary Americans can see who you are meeting with?
16. Will you commit to directing your senior officials to release their calendars on a regular basis?

We are also concerned about delays in EPA's response to FOIA requests under your administration. EPA's failure to meet the deadlines specified in the Freedom of Information Act results in legal violations, which then subject EPA to repeated lawsuits.

17. Given the legal expenses and waste of resources caused by EPA's failure to comply with FOIA deadlines, do you agree that EPA should streamline the review process for release of documents to eliminate any unnecessary steps, such as multiple levels of document review?
18. Do you think it is appropriate for political appointees and advisors to hold up the release of document for further review, even when documents have already been determined to be public documents not subject to FOIA exemptions by FOIA officers and FOIA attorney advisors?
19. Why would it be necessary for the documents to undergo a political review if they are public documents under the law?
20. It appears that EPA has now adopted a policy of responding to FOIA requests based only or primarily on the date of the request, regardless of the type of information requested, the simplicity of the request, or the relevance of the information to the public. Is that correct?
21. If not, please describe in detail the criteria that EPA is now using to prioritize processing FOIA requests?
22. Given EPA's large backlog, under your current approach, how long will it be before you respond to a substantial number of requests regarding your tenure and release documents generated during your tenure (besides those documents that EPA releases when a lawsuit is filed)? Please provide an estimate in weeks, months, or years.
23. Will you establish a policy of responding to new FOIA requests on an ongoing basis, rather than relegating them to the back of the line and without waiting to be sued on each request?

It has been reported that you and other political appointees have directed staff to avoid creating public records that could be subject to FOIA requests, such as directing staff to provide internal policy decisions orally instead of by electronic mail or directing staff not to take notes in meetings.

24. Do you agree that EPA is required to create and maintain records that document the formulation of the agency's decisions, and the people and matters dealt with by the agency, so that proper scrutiny by Congress and other agencies is possible?
25. Have you or other political employees provided any direction to staff that could discourage them from creating such records?

Contract with Definers Public Affairs:

On the day you testified before Energy and Commerce, EPA entered into a no-bid contract with Definers Public Affairs to provide "news analysis and brief service focusing on EPA work and other topics of interest to EPA."³ The awarding of this contract without full and open competition to a company with no apparent experience in providing these services to a Federal agency is concerning, as are the political lobbying activities of the firm. Though Definers recently terminated the contract with EPA, we have outstanding questions regarding EPA's selection of Definers and whether the Contract was an appropriate use of taxpayer dollars.

26. What was your role in selecting Definers for this award? In addition to yourself, which EPA political appointees were involved in selecting Definers? Please provide all communications between yourself and all other EPA political appointees and any Definers representative between February 17, 2017 and December 7, 2017.
27. Were you or other EPA political appointees aware of the FOIA requests filed by Definers employees against individual agency employees before the contract was awarded? Were those FOIA requests considered in the identification of Definers as a potential candidate for the Contract, or a factor in ultimately awarding the Contract?
28. Was Definers, AmericaRising, or any of their agents involved in creating or funding the website ConfirmPruitt.com?
29. Were you, any of your agents, or any current EPA employees involved in generating or reviewing the content of the website ConfirmPruitt.com, or providing or raising funds for the site? Did any representative of Definers, America Rising, or America Rising Squared generate or review content for the website?
30. What work did Definers perform for EPA pursuant to the contract? Please provide a list of all services performed by Definers for EPA during the duration of the contract, including the date, the service provided, time required, the itemized cost, and the name of the Definers employee who performed the work. What was the total amount of taxpayer funds EPA paid Definers during the duration of the contract? Please provide copies of all communications between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network during calendar year 2017.

³ EPA Award Number EP18H000025 to Definers Corps. (Dec. 7, 2017)

31. On December 10, the New York Times published an article identifying an alarming decrease in enforcement actions brought by the EPA during your administration.⁴ EPA issued an unusual press release in response, which has since been removed from the agency website but continues to be cited by conservative media sources. What role did Definers play in the agency's response to the December 10th article? Provide any correspondence between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network regarding the December 10th article.
32. What firewalls were in place in the contract with Definers Corp to ensure that Definers firewalled the media monitoring services provided under the Contract from its services that would violate the Publicity or Propaganda Prohibition and Anti-Lobbying provisions?
33. Please provide a copy of the contract between EPA and Definers Corp. including any statement of work.

Enforcement:

As noted above, on December 10, the New York Times published an article identifying an alarming decrease in enforcement actions during your administration. Specifically, their analysis shows your EPA has brought one quarter fewer cases than President George W. Bush's EPA and one-third fewer cases than President Barack Obama's EPA over comparable periods. The analysis also shows that you have sought significantly smaller amounts in civil penalties.

34. Can you explain why EPA has pursued fewer enforcement cases under your leadership?
35. Please describe any complaints you have received from communities/others who have been seeking, but apparently failing to receive relief from EPA from polluters?
36. Have you been asked by anyone in industry to change EPA's enforcement policies?
37. If so, please describe those conversations.
38. Can you explain any changes you have made to testing procedures and policies (e.g. requests for information) permitted by your regional offices, enforcement officers or other EPA staff, why those changes were made and what effect they have had on enforcement?

Co-Benefits of Air Rules:

You have questioned EPA's prior evaluations of public health protections that have included "co-benefits" of deadly particulate matter.

39. Do you agree there is judicial precedent upholding EPA's approach to consider co-benefit pollution reductions?

⁴ Eric Lipton and Danielle Ivory, *Under Trump, EPA has Slowed Actions Against Polluters, and Put Limits on Enforcement Officers*, New York Times, (Dec. 10, 2017), <https://www.nytimes.com/2017/12/10/us/politics/pollution-epa-regulations.html>

40. Why or why not?
41. Are you planning to seek legal review of this matter?
42. Are you planning to try to change the way co-benefits, like PM_{2.5}, are counted or considered in EPA rulemakings?
43. If so, why and what evidence do you have to support such a change?

Ozone:

For the 2015 Ozone rule, the Clean Air Act required all states and Tribes to submit attainment designation recommendations by October 1, 2016, and EPA was required to finalize area designations a year after. On November 6, the agency issued attainment designations for those areas that meet the 2015 standard, however EPA failed to release any nonattainment designations. In response to questions about EPA missing deadlines associated with the 2015 Ozone rule, you said the delay was due to “information that has not been provided by the states.”

44. Please provide a list of all states or Tribes who have not submitted designation recommendations to EPA for the 2015 Ozone standard. What information is still outstanding from these states or Tribes?
45. To date, has EPA notified any states or Tribes that it intends to modify any of their recommended designations? Please provide the Committee with a list of these states or Tribes, and copies of the notice provided by EPA.
46. Have you been in contact with any industry representatives or states about delaying the implementation of the 2015 Ozone standard as it relates to finalizing the remaining designations? If so, please describe the nature of your meetings and communications.
47. The Unified Regulatory Agenda included a reference to using “additional time afforded by the designations extension to finalize necessary guidance” related to the 2015 Ozone standards. However, after legal challenges from states and others, you walked back your effort to delay implementation of these standards.
 - a. Can you clarify what “extension” this refers to in the Unified Agenda?
 - b. Why would EPA need an extension to issue remaining designations?
48. When can we expect EPA to issue the remaining designations?
49. Who is on the Ozone Compliance Task Force, and what is its roll in implementing the 2015 Ozone standard? Please provide the Committee with a list of participants, schedule, meetings, materials, and communications.

Climate Change:

50. Federal courts have held that the quantity of emission reductions to be achieved is an important consideration in determining the "best system of emission reduction" for sources under section 111 of the Clean Air Act. What weight will you give to achieving significant emission reductions in considering a replacement for the Clean Power Plan?

At the hearing you questioned the integrity of the rulemaking that led up to EPA's December 2009 science-based finding that greenhouse gas pollution endangers public health and welfare. As you know, EPA received over 380,000 comments on the Endangerment Finding, responded to 10 petitions for reconsideration, and explained its determination in almost one thousand pages of documentation in the Federal Register and supporting technical documents. A three-judge panel of the D.C. Circuit unanimously upheld that finding in 2012 against a barrage of legal challenges, finding that it was supported by ample evidence and that EPA had appropriately relied on authoritative analyses by the Intergovernmental Panel on Climate Change, the U.S. government and other sources.

51. Please explain why you continue to question the process that led to the Endangerment Finding in light of this history and the D.C. Circuit's decision?

You recently stated that you intend to move forward imminently with a so-called "red team" exercise in which you will convene rival panels of scientists to debate climate science, just weeks after the Administration's Global Change Research Program released a "Climate Science Special Report" confirming that human activities are "the dominant cause" of observed climate change, and that climate change is already having adverse impacts around the country. This report was authored by scientists from multiple Federal agencies, national laboratories, universities, and the private sector, and went through six stages of external review including review by the National Academies of Sciences, Engineering, and Medicine and an open public comment period.

52. Please explain why the "red team" exercise a good use of scarce Agency resources in light of the extraordinary research and review that the Administration invested in the CSSR?

Budget:

It was recently reported that officials at the Center for Disease Control and Prevention are being directed to not use seven words or phrases in official documents for the FY 2019 Budget. The forbidden words are "vulnerable," "entitlement," "diversity," "transgender," "fetus," "evidence-based" and "science-based."

53. Is EPA also barred from using "vulnerable," "entitlement," "diversity," "transgender," "fetus," "evidence-based" or "science-based," in official budget documents?
54. Does EPA have a list of forbidden words or phrases for official budget documents? If so, please provide the Committee with such list.

EPA has been experiencing a workforce reduction, including through the use of buy-outs.

55. Please detail the status of workforce reductions conducted to-date, during this administration, including overall net personnel reductions?

56. In what offices and programs have net reductions occurred?
57. Please detail the categories in which workforce reductions have occurred in 2017, such as buy-outs, other voluntary separations, reductions-in-force, etc.
58. In 2018, what additional workforce reductions are planned, assuming funding is available to accomplish them?
59. In which programs and offices are reductions planned?
60. What closures or other changes to the current EPA regional offices or labs are planned for 2018 or beyond?

The Honorable Paul Tonko

1. Travel to Morocco

On December 12, EPA issued a press release, "Administrator Pruitt Promotes Environmental Cooperation with U.S. Partners in Morocco." While no members of the press accompanied you on this trip, it was reported that the purpose of the trip was to promote U.S. natural gas exports.

- a. Please provide an itinerary of your trip along with total estimated costs to U.S. taxpayers for you and any accompanying staff, including security details.
- b. How does promoting U.S. LNG exports fit into your "Back to Basics" agenda?
- c. What authority does EPA have related to the exportation, sale, or promotion of U.S. LNG?
- d. Please provide a list of companies, trade associations, or natural gas industry representatives that you or your staff have been in contact with regarding U.S. LNG exports. Please provide all records, communications, emails, meeting attendance or materials for any of these interactions.
- e. This trip was not publicly announced until EPA issued a press release once you had already arrived in Morocco. Moving forward, will you commit to publicly announcing all foreign and domestic trips prior to traveling?

2. Science at EPA

In the draft FY 2018-2022 EPA Strategic Plan, you have promised to "prioritize robust science." Under Objective 3.3 of the draft plan, you say that "EPA will identify, assess, conduct, and apply the best available science to address current and future environmental hazards, develop new approaches, and improve the scientific foundation for environmental protection decisions."

- a. Do you commit to ensuring that the EPA's actions and policies are guided by the latest climate science, as reflected in Volume 1 of the Fourth National Climate Assessment

(also known as the Climate Science Special Report or CSSR), and as described in statements and reports from the National Academy of Sciences?

- b. Do you agree with the CSSR's conclusion that "it is *extremely likely* that human influence has been the dominant cause of the observed warming since the mid-20th century... For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence"?
- c. Do you commit to making information about climate change prominently available on the EPA's website, alongside information about other critical issues related to human health and the environment?
- d. Regarding the October 31 Science Advisory Board directive, can you please provide specific examples of when an EPA grant recipient on an advisory committee provided conflicted advice?
- e. On October 22, the New York Times reported, "E.P.A. Cancels Talk on Climate Change by Agency Scientists." Why were EPA scientists prohibited from speaking at a Rhode Island conference on climate change?
- f. Moving forward, will EPA scientists have the opportunity to communicate publicly about their research?

3. Advisors to the Administrator

On December 13, it was reported that Dr. Michael Dourson withdrew his name to serve as Assistant Administrator for the Office of Chemical Safety and Pollution Prevention.

- a. In October, it was reported that Dr. Dourson was already working at the agency as an Adviser to the Administrator. Can you confirm whether Dr. Dourson has left the agency?
- b. If not, what are the roles and responsibilities of Dr. Dourson?
- c. What ethics or conflict of interest agreements apply or applied to Dr. Dourson in his role as Advisor to the Administrator?
- d. You testified that the October 31 Science Advisory Board directive was driven by a concern that "a perception or an appearance of a lack of independence in advising the Agency." Did any EPA leadership have a conversation or express concerns about the perception of conflict of interest from Dr. Nancy Beck's involvement in revising the TSCA framework rules after leaving a position with the American Chemistry Council?

4. Enforcement Actions and Monitoring

On December 10, the New York Times reported that EPA regional staff must seek authorization from HQ before asking companies to track their emissions. Monitoring is critical to ensure that

the environmental and health gains that have been made in recent decades are not undone. Power generating facilities in the Midwest emit sulfur dioxide and nitrogen oxides, which are the major precursors of acid rain which has caused the acidification of many Adirondack lakes and ponds.

- a. The Adirondack Lake Survey Corporation receives EPA funding for long-term monitoring of water quality recovery from acid rain. Do you support continuation of this long-term monitoring funding?

5. Hudson River Superfund Site

The State of New York has stated that the Hudson River PCB cleanup has not met the goals of the program, and that additional action is needed. Federal Natural Resource Trustees have also expressed concerns. The EPA Region II office does not appear to acknowledge the scientific basis of the state's and Trustee's analysis.

- a. Will EPA reconsider the recommendations of the Second Five-Year Review Report in light of the analysis done by the State and Trustee agencies?

6. OIG

The Office of Inspector General (OIG) Semiannual Report: April 1, 2017 - September 30, 2017 raised a number of issues about interference with the OIG's independence. From that report: "A second budget impediment occurred when the OIG submitted an FY 2019 request for \$62 million to the agency for inclusion in the President's budget. Without seeking input from the OIG, the agency provided us with a request of \$42 million. The agency informed the OIG that the Office of Management and Budget mandated budget requests Semiannual Report to Congress April 1, 2017—September 30, 2017 13 could not be more than a certain percentage above the President's FY 2018 budget. The EPA also informed the OIG that the \$42 million request would not change. The OIG submitted a memorandum to the Office of Management and Budget stating the OIG's original budget request, and explaining that the EPA's submitted budget did not reflect the OIG's desired funding levels and would have significant negative impacts on OIG operations."

- a. Do you believe a fully funded, independent Inspector General is necessary for EPA to run as an efficient and accountable agency?

7. IRIS

- a. How do you view the role of IRIS relative to ensuring full implementation of the TSCA program?
- b. Will you commit to fully supporting the IRIS program?

The Honorable Diana DeGette

1. Methane is up to 34 times more potent a greenhouse gas than carbon dioxide and makes up approximately ten percent of annual greenhouse gas emissions in the United States. Despite the harm methane can cause, the EPA has proposed delaying rules that would have curbed methane emissions from oil and gas industry sources. The proposed delay of the 2016 methane rule published in the Federal Register on June 16, 2017, states “the EPA believes that the environmental health or safety risk addressed by this action may have a disproportionate effect on children.”
 - a. Do you agree that children would be disproportionately affected by delaying methane emissions restrictions on the oil and gas industry?
 - b. What are the estimated costs of the health impact on children?
2. During your testimony we discussed the decision on a final rule concerning methylene chloride use in paint stripper. You promised to review the status of the rule and provide an update soon after the hearing. Rules concerning N-methylpyrrolidone (NMP) and trichloroethylene (TCE) were proposed at the same time. Prohibitions against certain uses of NMP and methylene chloride were removed from the Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions.
 - a. The Fall Unified Agenda was released on December 14, one week after your testimony before the committee. At what point was the decision made to remove the NMP and methylene chloride rules from the Unified Agenda?
 - b. When will EPA finalize the rules for TCE, NMP, and methylene chloride under TSCA?
 - c. What role did Michael Dourson have as an EPA adviser in determining the timeline for these rules?
3. In response to the explosion at the West Fertilizer Plant in Texas in 2013, EPA developed updates (the “Chemical Disaster Rule”) to Risk Management Plans (RMP) requirements. This update would have included common sense reforms, including improved accident prevention provisions and enhancements to emergency response preparation. In June 2017, the implementation of this rule was delayed. The rule had been in development for three years and was subject to more than 40,000 public comments.
 - a. During Hurricane Harvey, the Arkema Chemical plant in Crosby, Texas, experience fires due to a failure of emergency generators and backup cooling systems. First responders have filed suit against Arkema alleging that Arkema misrepresented the threat posed by chemicals at the site. A situation like this, where first responders cannot adequately prepare to respond to emergencies at chemical production facilities, is the sort of circumstances that the Chemical Disaster Rule was designed to avoid. Have the events at the Arkema plant, where first responders were put at risk, caused you to reconsider the delay of the Chemical Disaster Rule?

- b. The proposed EPA budget for fiscal year 2018 reduced funding for inspection of sites under the RMP by 35 percent, straining a program that only has 30 inspectors for 12,500 sites. In light of the number of facilities that need to be inspected, the low frequency of inspection, and the specter of climate change related extreme weather events like Hurricane Harvey, do you still feel the cuts to the inspection program are prudent?
- 4. The Climax Molybdenum Mining company in Colorado has asked the state of Colorado to relax limits on molybdenum allowed in runoff from the Climax mine in Summit County Colorado. Molybdenum is on the Contaminant Candidate List 4 (CCL-4). It was also on the CCL-3. Currently, states have minimal guidance from the EPA on the potential hazards of molybdenum in drinking water.
 - a. Is EPA currently collecting data on the health or environmental impacts of molybdenum in drinking water?
 - b. Will molybdenum be part of the Regulatory Determination 4 process going forward?
- 5. For more than two years, I have been focused on addressing the environmental damage caused by the August 2015 release of toxic mine water from Gold King mine in San Juan County, Colorado.
 - a. I was glad to see the Bonita Peak Mining District (which includes Gold King mine) was included on the list EPA released on December 8, 2017, of sites targeted for "immediate, intense action." Can you elaborate on the action EPA plans to take in the Bonita Peak Mining District and the expected timeline?
 - b. On December 17, 2017, the *Denver Post* reported on the success of cleanup efforts related to toxic Argentine Mine complex near Rico, Colorado. The article noted that the part of the success is that the private company legally responsible for cleaning up the site has invested "tens of millions of dollars" in the cleanup compared to less than \$5 million the EPA has invested in the cleanup of Gold King. What additional funding will EPA invest in the Gold King cleanup?
 - c. On October 19, 2017, the *Denver Post* reported that there is uncertainty regarding the ongoing costs association with the water treatment plant EPA is operating to clean up water from Gold King Mine. The annual cost of operating the plant is \$1.2 million and it produces toxic sludge while purifying the runoff. What is the EPA's long-term plan for the plant costs?
 - d. What is the status of finding a permanent solution for the waste sludge from the plant?

The Honorable Jerry McNerney

1. At the December 7th hearing, I stated that less than half of the U.S. population was included in the ozone designations laid out by the EPA. Though this statement was not made in the form of a question, Administrator Pruitt interjected, proclaiming that the lack of inclusion was due to missing information that needs to be submitted by states. However, on the EPA's website, there is a full list of state recommendations from 2015. Will the Administrator please explain his statement and what information is missing from which states?

